

Texas

Governing Agency

Texas Real Estate Commission

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License/Activity Law

- Licensing Law is found in Title 7, Chapter 1105 of the Texas Occupations Code..
- Texas Real Estate Commission (TREC) rules are found in Chapter 535 of the Texas Administrative Code.

Referral Fees/ Commission Sharing

- 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: 1) a license holder; or (2) a real estate broker licensed in another state who does not conduct in this state any of the negotiations for which the commission or other compensation is paid. *Texas Occ. Code 1101.651.*
- Texas-licensed brokers may cooperate with and share earned commissions with persons licensed as brokers in other states, but all negotiations physically conducted within Texas must be handled by Texas licensees. *Texas Admin. Code 535.131(a).*
 - A resident of a foreign state that does not require a person to be licensed to act as a real estate broker is considered to be licensed as a broker for the purposes of

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§1101.651 of the Act, if the person complies with the law of the foreign state and practices there as a real estate broker. *Texas Admin. Code 535.131 (b)*.

Acts requiring license

- A person participating in real estate activities within the State of Texas is required to maintain a Texas license. *See Texas Occupations Code §1101.351 and Texas Administrative Code Title 22, §535.4.*
 - A person acts as a broker or salesperson under this chapter if the person, with the expectation of receiving valuable consideration, directly or indirectly performs or offers, attempts, or agrees to perform for another person any act described by Section 1101.002(1), as a part of a transaction or as an entire transaction. *Tex. Occ. Code 1101.004.*
 - For purposes of Texas Occupations Code 1101, a person conducting brokerage business from another state by mail, telephone, the Internet, email or other medium is also considered acting within this state if all the prospective buyers, sellers, landlords, or tenants are legal residents of this state, and the real property concerned is located wholly or in part within this state. *TAC 535.4(a).*
- Requirement for a license does not prohibit cooperative arrangements between non-resident brokers and Texas brokers pursuant to §1101.651(a)(2) of the Act and §535.131 of this title (relating to Unlawful Conduct: Splitting Fees). *TAC 535.4(b).*

Reciprocity Statement

- The Texas Real Estate Commission's Reciprocity Statement is simple: "Texas does not have reciprocity with any other states with regard to real estate licensure."

License Types

- General License Requirements are found in *TAC 535.51*.
 - Individuals have educational and experience requirements to obtain salesperson and broker licenses. *TAC 535.52, 535.55, 535.56.*
 - Business entity must designate an individual Broker to act for it. *TAC 535.53.*
 - TREC sets forth the step by step licensing process:

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- Licensed as a Salesperson:
 - <http://www.trec.state.tx.us/licenses/salesapp.asp>
- License as a Broker
 - <http://www.trec.state.tx.us/licenses/brokerapp.asp>
- Additional requirements for entities:
 - http://www.trec.state.tx.us/licenses/corp_llc_app.asp
- To become licensed in the state of Texas, an out of state licensee must meet all current Texas licensing requirements. See *Tex. Occ. Code 1101.306(b)*.
- Nonresidents' eligibility to apply for licensure is set out in *TAC 535.132*.
 - Person residing out of state may apply for license if he/she is licensed as a broker by the other state; or was licensed as a salesperson or broker in Texas no more than 2 years prior to filing an application. *TAC 535.132(a)*. Commission may waive education and experience requirements. *TAC 535.132(a)(3)*.
 - Foreign business entity may apply for a Texas broker license if (1) entity is licensed as a broker by the state in which it was formed, (2) is licensed as a broker in which it is permitted to engage in real estate brokerage business, or (3) its state does not license business entities, it is actively participating in real estate brokerage activities, and meets all other requirements for Texas applications. *TAC 535.132(b)*. Foreign entity must designate a person to act for it and also be permitted to engage in business in Texas. *TAC 535.132(d)*.
- Foreign business entity may obtain a license so long as it meets the requirements, is qualified to do business in Texas, its officers, managers, or general partners are Texas residents, and its principal place of business and all assets are located in Texas. *TAC 535.53(b)*.

Misc./Advertising

- TAC 535.154 details rules and requirements for advertising that must be followed.
 - An advertisement must clearly and conspicuously contain the name of the broker, either a business entity or an individual. For purposes of this section, the broker, or a salesperson sponsored by the broker, may use the broker's assumed name instead of the name in which the broker is licensed, if the assumed name is registered with the commission under subsection (e) of this section. An

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advertisement may not contain an assumed name unless a broker has registered that assumed name with the commission. If the broker's name or its assumed name includes a salesperson's name, the advertisement must include another assumed name of the broker that does not include a salesperson's name, or the designated agent's name. *TAC 535.154(c)*.

- An advertisement placed by a licensee must include a designation such as "agent," "broker" or a trade association name that serves clearly to identify the advertiser as a real estate agent. *TAC 535.154(f)*.
- A real estate licensee placing an advertisement on the Internet, electronic bulletin board or the like must include on each page on which the licensee's advertisement appears any information required by this section and §1101.652(b)(23) of the Act. *TAC 535.154(j)*.
- A real estate licensee placing an advertisement by using an electronic communication, including but not limited to email and email discussion groups, text messages, and social networking websites must include in the communication and in any attachment which is an advertisement, the information required by this section and §1101.652(b)(23) of the Act. *TAC 535.154(k)*.
- Tex. Occ. Code 1101.652 (b)(23) provides potential consequences for failing to comply with advertising requirements:
 - The commission may suspend or revoke a license issued under this chapter or take other disciplinary action authorized by this chapter if the license holder, while acting as a broker or salesperson:
 - (23) publishes or causes to be published an advertisement, including an advertisement by newspaper, radio, television, the Internet, or display, that misleads or is likely to deceive the public, tends to create a misleading impression, or fails to identify the person causing the advertisement to be published as a licensed broker or agent.
- Compensation to or paid by a salesperson must be approved by salesperson's Broker. *Texas. Admin. Code §535.3*.
- A broker or salesperson may not share a commission or fees with an unlicensed corporation or limited liability company created by a licensee for the purpose of collecting a commission or fees on behalf of the licensee. *TAC 535.147(c)*.

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