

TEXAS



REAL ESTATE COMMISSION

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To: Senate Committee on Business & Commerce

From: Douglas E. Oldmixon, Administrator & Commissioner

Date: Effective January 24, 2013

RE: **Quarterly Agency Update**

The following is a quarterly update regarding issues impacting the Texas Real Estate Commission (TREC) and its independent subdivision, the Texas Appraiser Licensing & Certification Board (TALCB), together (the "agency").

Implementation Status of Key Legislation from the 82nd Legislature

Senate Bill 747

The majority of the items addressed by SB 747 were "clean-up" issues reflecting recent changes in the real estate industry, and were primarily implemented through the rulemaking process. However, some items required additional implementation beyond rulemaking. The bill amended pre-licensure requirements for real estate license applicants. As a result, the agency updated all licensing forms and related online services and information. A newly mandated 6 hour broker responsibility course necessitated the establishment of specific eligibility criteria for instructors teaching the course and the development of course materials and instructor training. The bill also required certain license holders, including any salespersons designated as supervisors by a broker, to take the above-mentioned broker responsibility course. To ensure compliance with the statute, the agency developed a Relationship Management Tool (RMT) that allows a broker to make that designation online, thereby providing TREC a means to keep track of those salespersons required to take the course.

House Bill 2375

This "housekeeping" bill updated Chapter 1103 of the Occupations Code to allow TALCB to better meet the demands of the current regulatory environment. In addition to addressing several "clean-up" issues, the bill clarified that anyone performing real estate appraisals in Texas must be certified or licensed by TALCB, expanded TALCB's disciplinary authority to allow temporary suspension of a license on an emergency basis, repealed the provisional license option, and mandated reciprocity with certain states that meet applicable national standards. All aspects of HB 2375 were achieved through the rulemaking process.

HB 1146

This bill placed Appraisal Management Companies (AMCs) under the regulatory authority of TALCB. As a result, AMCs must register with TALCB and use only appraisers that are actively licensed or certified by TALCB when conducting business in Texas. In light of these requirements, TALCB provided AMCs with an online registration option and developed a Panel Management Tool (PMT) that provides AMCs the ability to establish and manage their appraiser panels online. The PMT

ensures statutory compliance by providing AMCs access to only those appraisers currently licensed by TALCB. Online registration of AMCs and utilization of the PMT have been very successful. As of January 1, 2013, 183 AMCs are registered to do business in Texas, and Texas' nearly 6,000 appraisers have accepted over 18,000 invitations to serve on a panel for one or more AMCs.

SB 1000

This bill granted the agency self-directed, semi-independent (SDSI) status as of September 1, 2011. Since that date, the agency has implemented the necessary rules and procedures to ensure compliance with the requirements associated with SDSI status. The transition has been very successful. The agency's overall operations expenditures at the end of its first fiscal year as an SDSI agency (FY2012) were below agency projections, while revenue stayed on track with the agency's budget projections.

Integration of Technology to Aid Licensees

As mentioned above, the agency has developed two online tools over the last year with the joint effort to improve our regulatory efficiency and enhance licensees' ability to conduct their business with the agency. While the RMT was developed to help the agency meet the requirements of SB 747, this same tool allows a licensee to initiate and complete requests for a change of sponsor through a simple, online process, without agency intervention. Utilization of this tool will alleviate the need for licensees to wait on TREC staff to process sponsorship changes in order to continue to conduct business. In a similar vein, the PMT places panel management in the hands of the AMCs. The agency is constantly exploring ways to integrate technology to support our mission and benefit our licensees and as a result, we are currently in the process of developing similar online tools for all classes of licensees under its jurisdiction.

Possible Legislative Issues

Looking forward to this legislative session, there may be a bill introduced to amend Chapter 1102 of the Texas Occupations Code, which governs real estate inspectors, to address changes in the real estate inspection industry in Texas and better equip TREC to carry out its regulatory mission. Specific issues that may need to be addressed are as follows:

- **Fingerprinting inspector license holders.** Most other license types regulated by the agency are, or by 2015, will be statutorily subject to fingerprinting. Fingerprinting allows the agency to conduct criminal background checks to ensure a basic consumer protection is met.
- **Clarifying the E&O insurance requirements for inspectors.** Currently, inspectors are statutorily required to maintain \$100,000 in professional liability (E&O) insurance. However, the statute is silent with regard to whether this is a per occurrence amount or an annual aggregate. As a result, insurers are unclear as to what insurance amount they should be writing and have been marketing policies in varying amounts; inspectors are unable to properly shop for insurance on a clear comparative basis, and the agency does not have a set standard by which to properly judge compliance with the mandated insurance requirement. Amending the statute to provide a clear per occurrence amount and annual aggregate would alleviate all of these issues.
- **Educational requirements.** For applicants entering the profession under the statutory provisions that permit licensure using additional education in lieu of the traditional apprenticeship method, the statute currently allows the "field" experience requirements to be accomplished in a classroom setting. This runs counter to the reason for mandating field or apprenticeship experience and too often results in an inspector's first field inspection experience coinciding with the inspector's first inspection assignment. Mandating actual field time provides a valuable consumer protection by providing licensees not only with the necessary education and training, but also the practical "hands-on" experience needed to properly complete inspection assignments for Texas' homeowners.
- **Repeal of the Texas Real Estate Recovery Fund.** It is redundant to maintain a Texas Real Estate Inspection Recovery Fund with small claim limits and to mandate E&O coverage for consumer protection. If the mandatory E&O requirement is strengthened, the recovery fund should be repealed.

Additional explanatory information can be provided at the Committee's request.