

TEXAS



REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

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To: House Committee on Licensing and Administration Procedures

From: Douglas E. Oldmixon, Administrator & Commissioner

Date: Effective October 10, 2014

RE: **Implementation Status of Key Legislation from the 83rd Legislature**

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

House Bill 2911

HB 2911 amended Chapter 1102 of the Occupations Code to the real estate inspectors to upgrade the caliber of real estate inspections in Texas and conform agency practices related to inspectors to match those used by TREC for its other licensees. Various administrative aspects of the bill have been implemented by the agency, such as the fingerprinting and background check requirement and late renewal period provisions. New inspector licensing and education requirements addressed in the bill were adopted by rule and were effective as of January 1, 2014. Additional rules were adopted in April of this year to implement the field work requirements authorized by the bill. Staff continues to work with the Texas Real Estate Inspector Committee and various stakeholders through the rulemaking process to ensure that all aspects of the legislation are implemented in a way that is fair to license holders and provides the highest level of protection to Texas consumers. Other items that require additional implementation beyond the rulemaking process, such as updating forms and online information, have been addressed by staff.

Senate Bill 984 and House Bill 2414

These bills expand the use of videoconferencing of the meeting of governmental bodies, provided certain conditions are met. The Department of Information Resources (DIR) adopted rules specifying the minimum standards for audio and video signals for a meeting held by videoconference call. A task force made up of several agencies in the Stephen F. Austin Building was formed to explore the best technical solution to implement these standards in the common meeting areas utilized by the governing bodies of those agencies. The group has met several times over the last year to make certain that the conditions set out in the bills will be met in the most efficient and cost effective manner and that any processes put in place comply fully with the Open Meetings Act and the requirements of the legislation. The agency is anticipating implementing the final stages of this process to provide members of TREC and TALCB the ability to meet electronically by early 2015.

Senate Bill 162

This bill required occupational licensing agencies to provide an expedited licensure process for military spouses. The bill also requires agencies to issue a license to a qualified applicants who are active service members or military veterans who hold a current license issued by another jurisdiction. The agency has adopted the necessary rules, forms, and procedures to ensure compliance with the requirements of the legislation.

House Bill 2532

This bill amended the Utilities Code to establish standards for propane gas distribution system retailers. The bill also requires someone who wishes to sell or convey real property located in a propane gas system service area owned by a distribution system retailer to give to the purchaser statutory written notice that the property may be located in a propane gas system service area and that there may be additional costs to the purchaser of the property. To address the statutory notice requirement, the Commission adopted a new form recommended by the Broker-Lawyer Committee at the Commission's February 2014 meeting.

House Bill 2781

This bill amends the Government Code, the Health and Safety Code, the Local Government Code, and the Property Code regarding the harvesting of rainwater. The bill amends the seller's disclosure notice required by the Property Code for use in residential real estate transactions to include notice of any rainwater harvesting system located on a property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source. TREC approves a statutory version of the seller's disclosure notice and TREC adopted revision to that disclosure, with the required rainwater harvesting notice, in October 2013.

Senate Bill 1372

This bill established the Timeshare Owners Association Act. Timeshare owners associations are exempt from the provisions mandated by the Homeowners Association Act found in Chapter 209 of the Texas Property Code that govern the operation of homeowners associations, and this bill provided a parallel set of applicable to the governance of timeshare owners associations. While timeshare companies are regulated by the agency, nothing in the bill requires any direct implementation or action by the agency.

Possible Statutory Changes for 84th Legislature

The agency recently completed its quadrennial rule review in accordance with the Texas Government Code, §2001.039. Several amendments to remove outdated and redundant language from the agency's rules have been adopted or proposed for adoption at the next meeting of the Commission and Board. As a result of this extensive review of the agency's regulatory functions, as well as changes in both the real estate and appraisal industry over the last several years, various issues have come to light that the agency currently has limited authority to address. Consequently, the agency believes there is a need to address these issues statutorily to better equip the agency to carry out its regulatory functions. Some issues that would require action by the legislature during the upcoming session are:

For both TREC and TALCB

- Various clean up provisions to promote consistency in application of the agency's processes across the various license types regulated by the agency
- Add confidentiality provisions to protect investigative files and documents during an investigation
- Add authority to award education credit when TREC or TALCB members or staff make certain substantive presentations to license holders
- Add a potential for cost recovery in cases of default at SOAH, if ordered by the judge

TREC only (Chapter 1101, TX Occupations Code)

- Grant TREC broader authority to adopt various statutorily required consumer protection provisions by rule
- Clarify the scope of claims allowed against the Real Estate Recovery Fund
- Require a high school diploma (or equivalent) to be eligible for a license
- Require an applicant that fails the licensing exam three consecutive times to take additional education prior to sitting for the exam again
- Add 2 year waiting period for reapplication if a license is revoke or denied

TALCB only (Chapter 1103, TX Occupations Code)

- Increase the Board member terms from 2 to 4 years (with 8 members rotating)
- Add authority to fingerprint and perform criminal history checks on TALCB license holders (this will be Federally required as 01/01/2017, prior to the next legislative session)
- Expand the AMC Advisory Committee to 5 members (from 3) by adding another controlling person and another public member