Chapter 3 Summary
Introduction to Modern Real Estate Practice: TREC and Licensing Requirements
Texas Real Estate Principles 1

The Texas Real Estate Commission (TREC) was created to enforce license law and enact rules and regulations to support the law.

Members of the Commission

- 9 board members: 6 members from real estate industry, 3 members from general public
- Appointed by governor
- Should a person or their spouse be registered, certified, or licensed by an occupational regulatory agency in the industry, they are deemed ineligible.
- Term is 6 calendar years

The commission must:

- Administer Chapter 1101 and Chapter 1102.
- Adopt rules and establish standards relating to permissible forms of advertising by a license holder acting as a residential rental locator.
- Maintain a registry of certificate holders.
- Design and adopt a seal.
- The Commission in the course of conducting hearings and investigations is empowered to issue subpoena.

The Texas Real Estate License Act (TRELA) establishes a Real Estate Recovery Fund for the protection of the public against harmful actions by licensees. The fund is maintained and administered by TREC.

A license fee is charged in order to obtain a balance in the trust fund of $1.7 million.

Claim for Payment from Trust Account. Upon order of the court, an aggrieved party may proceed to collect from the licensee. If the licensee cannot pay the full amount, the party may apply to the court for an order. The order directs the court to pay the balance due from the real estate recovery fund.

- Payments from the trust account for claims arising out of a single transaction may not exceed a total of $50,000, regardless of the number of claimants.
- Payments from the trust account for claims based on judgments against a single licensee may not exceed a total of $100,000.

Unless specifically exempted, anyone who acts or claims to act in any way as a real estate broker or salesperson in the state of Texas must first obtain the proper license from the Texas Real Estate Commission.

A broker is an individual who performs certain real estate services for another party for compensation. The broker is the person ultimately responsible for the company's activities, notably the activities of other licensees as well as the business's trust accounts. The broker is the party who employs other agents to carry out the firm's business.

A salesperson is any licensed person who is associated with a licensed broker and performs certain real estate services.
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A person may invest in real estate or contract to purchase real estate and then sell it or offer to sell it without having a real estate license. A license is not required for a person to buy or sell real property only for the person's own account. A Texas real estate license is also not required for:

- **Attorneys-in-fact** acting under a power of attorney from an owner or lessor, to conduct a real estate transaction, provided the attorney in fact receives no fee or other consideration;
- **Attorneys-at-law** providing legal services in the course of their duties as attorneys, licensed in Texas only;
- **An auctioneer** licensed under Chapter 1802 while conducting the sale of real estate by auction, if the auctioneer does not perform another act of a broker or salesperson;
- **Receivers, trustees in bankruptcy, administrators, executors, or guardians** while acting under court order or under the authority of a will or trust instrument;
- **A person employed by an owner** in the sale of structures and land on which structures are located, if the structures are erected by the owner in the course of the owner's business;
- **Resident managers**, provided they reside on the premises and are engaged in leasing as a part of their employment;
- **Federal agency or state government officer/employee** while conducting official duties;
- **An owner or the owner's employee** who leases the owner's real estate;
- **A partnership or limited liability partnership** acting as a broker or salesperson through a partner who is a licensed broker; or
- **A transaction involving**: The sale, lease, or transfer of a mineral or mining interest in real property; the sale, lease, or transfer of a cemetery lot; the lease or management of a hotel or motel; or the sale of real property under a power of sale conferred by a deed of trust or other contract lien.

In Texas there are common requirements that both broker and sales applicants must meet:

- Be at least 18 years of age, a citizen of the US or lawfully admitted alien, and a resident of this state
- Satisfy the commission as to the applicant's honesty, trustworthiness, and integrity. Demonstrate competence based on an examination. Complete the required courses of study, including any required core real estate courses prescribed under this chapter, including three classroom hours of course work
- Provide fingerprints to the Department of Public Safety within six (6) months
- Complete a criminal history background check, and pay appropriate fees

In addition, there are specific licensing requirements for brokers and salespersons.

The commission sets rules for how much and what kind of education licensees may take to renew their licenses. The commission by rule may prescribe the title, content, and duration of continuing education courses that a license holder must attend to renew a license. The commission can also approve relevant educational experience and correspondence courses as a substitute for the required classroom attendance.

The entity within the Real Estate Commission that is responsible for making these decisions is the **Education Standards Advisory Committee**. The committee consists of **twelve (12)** members appointed by the commission. Members serve **two-year terms**, expiring on December 31 of each even-numbered year.