



Tennessee Real Estate Commission

Director's Report



Greetings from the Tennessee Real Estate Commission! My name is Malcolm Young, and I am the new executive director for TREC (Tennessee Real Estate Commission), which is part of the Division of Regulatory Boards in the Tennessee Department of Commerce & Insurance (TDCI).

Having served in the real estate and housing industry over the past 30 years, I bring experience, leadership, and innovation to my new role. In the months ahead, you will see TREC continue its mission of providing appropriate regulation of Tennessee's

real estate industry and as an information resource for licensees. You will also see improvements that will expedite the licensing process, improve customer service, and process complaints more efficiently.

TREC's upgrades perfectly align with Governor Bill Haslam's commitment to improving customer service throughout Tennessee state government. We are in the process of making internal infrastructure enhancements to our system that will create a new platform of interactivity between the licensing agency and the licensee. When fully implemented, the system will automate the initial licensing application, office transfers, renewals, education tracking and more. We are also redesigning our forms to expedite licensee transactions and reviewing the potential rules impacted by this new program.

Additionally, TREC staff is receiving customer service training to better serve our licensees.

Please know that my door is open,

and I am willing to assist our licensees who make Tennessee a great place to work and live.

Sincerely,
Malcolm Young, Executive Director
Malcolm.Young@tn.gov



Tennessee Real Estate Commission

Created in 1951, The Tennessee Real Estate Commission licenses, registers and regulates real estate brokers and affiliate brokers, real estate firms, rental location agents, time-share salespersons and developments, vacation clubs and vacation lodging services.

Recent Rule Changes – October 2015

New Rules for TREC licensees:

On October 18th, 2015 new rules became effective for all Tennessee real estate licensees. To help you better understand the impact of the new rules, a summary of each new rule is provided. **For the exact language, please refer to the official Rules of the Real Estate Commission.**

Rule 1260-01-18 Duplicate or Confusingly Similar Firm Name

TREC will not issue a new firm license in a name that is the same or confusingly similar to another firm already issued. The applicant may appeal a decision not to issue first to the Executive Director, and then to the Commission.

Rule 1260-01-19 Appearances Before the Commission for the Purpose of Obtaining a License

When a licensure applicant appears before the Commission, they must also ensure the presence of their principal broker (or intended principal broker).

Rule 1260-01-20 Military Applicants

An applicant serving in the military may be issued a license upon application and payment of all fees if the Commission decides the requirements for licensure from another state are substantially equivalent to Tennessee. Or, a military applicant may obtain a temporary permit until they have completed the additional requirements necessary to become equivalent in the opinion of the Commission. Also, military education, training or experience shall be acceptable for equivalent qualifications as determined by the Commission.

Any licensee who is a member of the National Guard or a reservist called to active duty whose license expires during that time shall be eligible to be renewed upon the licensee being

released from active duty without payment of late fees, or penalties; or obtaining CE credits.

Rule 1260-01-21 Reinstatement of an Expired License of a Broker, Affiliate Broker, Time-Share Salesperson, or Acquisition Agent

Expired license due to health issues or medical problems: If a licensee fails to renew within 60 days after expiration due to personal or family health issues, they can request a medical waiver from the Commission with a signed doctor's statement. Also, renewal fees must be paid but late penalties are waived.

Expired license due to failure to comply with prerequisites to licensure: If a licensee fails to comply with their conditions to licensure or renewal, but successfully completes same within 60 days of expiration, the penalty fee will be \$50 per 30 day period in addition to their renewal fees.

If a licensee fails to comply with their conditions to licensure or renewal after 60 days of expiration, the licensee must sign a Reinstatement Order, complete all prerequisites or conditions, attend 1 entire regularly scheduled TREC meeting, and pay renewal fees, and pay \$50 penalty fees per 30 day period (if within 120 days); or if more than 120 days (but less than 1 year) they must pay \$100 per 30 days period beginning on the 121st day.

If a license is expired for more than 1 year, the individual must reapply for licensure, meet current education requirements, and pass all required exams.

Rule 1260-02-02 Termination of affiliation is amended by deleting the old rule and substituting the following:

Any licensee or principal broker wanting to terminate the licensee's affiliation with a firm shall submit to TREC a completed Transfer, Release and Change of Status Form (TREC Form 1). The principal broker's supervisory responsibility for future acts of the licensee shall terminate upon TREC's receipt of the form. Then, within 10 days the licensee shall complete the required administrative measures of either change of affiliation or retirement. No real estate activities can be engaged in until the change of affiliation is received and processed.

If completed online, TREC recognizes the transfer to a new firm as completed at the time the request is completed online and the confirmation is printed if: the principal broker who is receiving the licensee into his/her firm has verified that the affiliated licensee has an active license and current E&O insurance, and a complete TREC 1 Form is received by TREC within 5 business days of the online submission.

When a licensee terminates his affiliation with a firm, they shall not take nor use any property listings or buyer representation agreements secured through the firm, unless specifically authorized by the principal broker in writing.

Upon demand by a licensee for his/her release from a firm, it must be promptly granted by the principal broker (PB) and the PB must return the license to the licensee, unless they can't be located in that case the PB may return the license to TREC.

If the PB is deceased or physically unable or refuses to sign a release, the licensee may request termination by submitting a notarized Affidavit for Release to TREC. Likewise if the

affiliated licensee is deceased or physically unable or refuses to sign a release the PB must submit a completed TREC 1 Form to TREC.

The Commission will not intervene in the settlement of debts, disputes etc. between firms, brokers, and/or affiliates.

Rule 1260-02-09 Deposits and Earnest Money is amended by deleting the old rule and substituting the following: Rule 1260-02-09 Managing Escrow or Trustee Accounts

"Commingling" is defined as the act of a licensee maintaining funds belonging to others in the same bank account that contains his or her personal or business funds.

"Trust money" is defined as either: money belonging to others received by a licensee who is acting as an agent or facilitator in a real estate transaction; or any money held by a licensee who acts as the temporary custodian of funds belonging to others.

Each PB shall maintain a separate escrow account for the purpose of holding trust money received in their fiduciary capacity. All trust money received and held which relates to the lease of property must be held in one or more separate escrow or trustee accounts.

An affiliate broker shall pay over to the PB all trust money immediately upon receipt.

PB's are responsible at all times for trust money accepted by them or their affiliate brokers. If a contract authorizes a PB to place trust money in an escrow or trustee account.

The PB shall clearly specify in the contract the terms and conditions for disbursement, and the name and

Recent Rule Changes – October 2015

address of the person or firm who will actually hold the trust money.

Where the contract authorizes an individual or entity other than the PB to hold the trust money, the PB is relieved of responsibility for the trust money by the specified agent.

A PB may disburse trust money: pursuant to the contract authorizing him to hold the trust money; by a written agreement with all parties having an interest separate from the trust contract; at the closing; upon the rejection of an offer to purchase, sell, rent, lease, exchange or option real estate; upon filing an interpleader action; upon the order of a court.

Trust money shall be disbursed in a proper manner without unreasonable delay.

Absent a compelling reason earnest money shall be disbursed, interpleaded, or turned over to an attorney to interplead the funds within 21 days from the date of receipt of a written request.

No postdated check shall be accepted for payment of trust money unless otherwise provided in the offer. Trust Money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer, unless the offer contains a statement saying otherwise. Commingling of funds contained within firm accounts is prohibited.

Interest bearing escrow accounts are neither required nor prohibited. If used there must be a written contract between the parties expressing that such exists, the manner of disposition, and a detailed accounting shall be kept by the licensee for

each separate account.

Rule 1260-02-12 Advertising is amended by deleting the old rule and substituting the following:

All advertising, regardless of its nature and the medium in which it appears, which promotes either a licensee or the sale of real property, shall conform to this rule. "Advertising" can be: print, radio, TV, signs, flyers, e-mail signatures, websites, social media communications, video or audio recordings, by internet or streaming. It does not include: promotional materials such as hats, pens, notepads, t-shirts, name tags, business cards, and the sponsorship of charitable and community events.

Firm name means either: the entire name of the real estate firm as licensed, or the DBA name, if applicable as licensed.

No licensee shall advertise to sell, purchase, exchange, rent or lease property in a manner indicating they are not engaged in the real estate business.

All advertising shall be under the direct supervision of the PB, and shall list the firm name, and telephone number. As to size and visibility: the name must be the most prominent name featured within the advertising, whether by print or other media. The firm telephone number shall be the same size or larger than the number of any individual or group.

Any advertising which refer to an individual licensee must list the name licensed by TREC. No licensee shall post a sign advertising property for sale, purchase, exchange, rent or lease, without written authorization from the owner of the advertised property or owner's agent. No licensee shall advertise property listed by another

Recent Rule Changes - October 2015

Continued from page 3

licensee without written authorization from the property owner.

No licensee shall advertise in a false or deceptive manner including: using only the franchise name without the firm name; holding themselves out as a team, group or similar entity within a firm who advertise themselves using terms such as "Real Estate," "Real Estate Brokerage," "Realty," "Company," "Corporation," "LLC," "Inc.," leading the public to believe that they are offering services independent of the firm and PB, or any webpage that contains a link to an unlicensed entity's website that require TREC licensure.



Any licensee using a franchise trade name or as a member of a cooperative group shall unmistakably indicate in the ad his/her name, firm name and firm telephone number listed with TREC next to any properties advertised for sale or lease in any media.

When advertising other than for specific properties, the licensee shall call to the attention of the public that "Each (Franchise Trade Name or Cooperative Group) is Independently Owned and Operated."

A licensee using a franchise trade name

on business cards, contracts, or other documents shall clearly indicate: their name, firm name, and firm telephone number, and that their office is independently owned and operated.

Internet advertising, including social media, must include: the firm name and telephone number, conspicuously on each page of the website. It must also include a statement if applicable that some or all of the listings may not belong to the firm whose website is being visited. Listing information must be kept current and accurate as it applies to "First Generation" advertising, and does not include syndicated or aggregated advertising.

Unsubstantiated selling claims and misleading statements are strictly prohibited. Any offer or warranty must be made in writing on the face of the advertisement.

Rule 1260-02-.39 Commissions Earned by Affiliated Licensees

Commissions earned while working under a PB can still be paid after one or more of these circumstances occur: the licensee transfers to a new broker; retires their license; is in broker release status; allows their license to expire, or the death of the affiliated licensee.

Rule 1260-02.40 Electronic Records

Per the law real estate licensees must preserve records relating to any real estate transaction for 3 years. Electronic recordkeeping is allowed if: all documents must be readily accessible in an organized format within 24 hours of any request for inspection by TREC; and the PB must utilize a retention schedule and security format that ensures accessibility in a readable format.

Rule 1260-02-.41 Licensees Who Hold Themselves out as a Team, Group, or Similar Entity within a Firm

They must be affiliated with the same licensed firm and shall not establish a physical location for said team or group that is separate from the physical location of the firm.

No compensation shall be received from anyone other than their PB. The PB shall not delegate their supervisory role to any licensees in the team or group. They shall not represent themselves as a separate entity from the firm, nor shall they designate members as agents as this remains a responsibility of the PB.

TREC Commissioners

John Griess (Chairman)
Knoxville, TN

Janet DiChiara (Vice-Chairman)
Jackson, TN

Gary Blume (Commissioner)
Germantown, TN

Diane Hills (Commissioner)
Kingsport, TN

Austin McMullen (Commissioner)
Nashville, TN

Marcia Franks (Commissioner)
Franklin, TN

Bobby Wood (Commissioner)
Mount Juliet, TN

Fontaine Taylor (Commissioner)
Memphis, TN

Johnny Horne (Commissioner)
Chattanooga, TN

Tips To Avoid Real Estate Errors and Omissions Claims

While even the most diligent licensee may be the victim of a frivolous claim, diligent business practices help decrease risk. Even if these procedures do not prevent a claim, they may greatly enhance the chance of a successful defense.

1. Resolve problems far before the closing date. Don't wait until the last minute to address problem issues. When people are rushed to resolve matters, they are more likely to make mistakes or overlook items.
2. Don't try to be an expert at everything. Involve key professionals, such as attorneys, home inspectors, termite inspectors, appraisers, lenders, and surveyors when needed. Provide a list of several names or a copy of the yellow page listings but do not recommend a specific individual or firm! Keep a copy of the list you provide.
3. It is generally a good idea to require agency disclosure on every transaction. Be familiar with your state's laws regarding when a written agency disclosure is required, at what stage it must be completed, and who must be provided with signed copies. Typically, agency relationships should be disclosed as soon as possible, but in any event, prior to providing specific assistance to the client. For example, buyers should be advised if the licensee showing them the house is the seller's agent.
4. Document conversations, recommendations, and activities in a log. It is also often helpful to document conversations by sending a brief follow up email.

Keep organized, detailed records of all real estate transactions. This is often required by state law, will assist you in recalling details, and will be helpful to an attorney if a defense is needed in the future.

5. Brokers should have regular meetings with their firms' licensees and remain informed as to their activities. Establish consistent guidelines and make sure everyone in the firm understands and complies with them.
6. Listing agents should have the seller complete any required property disclosure form. This form should never be filled out by the real estate licensee. Additionally, if any issues arise while the property is listed, advise the seller to update the disclosure form accordingly.
7. Recommend that buyers obtain a home warranty and retain written evidence of the recommendation.
8. Recommend that buyers obtain a home inspection. If they decline,

have them sign a form confirming this decision.

9. Many states and associations have standard contract forms. It is wise to address items that are outside of standard form language with the client's legal counsel, or else the real estate licensee risks the unauthorized practice of law.
10. When information is obtained from a third party, it is often a good idea to disclose the source when making representations, because sometimes information from what appears to be a valid source turns out to be inaccurate. For example, if you believe a property is on city sewer based on a prior listing or a statement by the city utility office, disclose the source of your representation.

Prepared by Rice Insurance Services Company, LLC © 2015



FAQs: TREC Transitions to CORE

Like all of the Department's licensed professions, TREC is now embracing our new online platform: Comprehensive Online Regulatory and Enforcement or CORE. Launched in September 2015, CORE is being implemented in phases and will ultimately simplify, modernize and improve the overall experience of acquiring or renewing a license through the Department.

Here's a Frequently Asked Questions (FAQ) about CORE and what it will mean for licensees:

Q: How and why was CORE conceived? What is its goal?

The CORE system was conceived to replace an aging, outdated system that did not provide a foundation for transitioning to streamlined, cost-effective online processing. Our goal has been to reduce our reliance on paper while creating a system that has the technical foundation to support contemporary online transactions today and has the ability to be refined as both regulatory processing and technology evolve tomorrow.

Q: How does CORE assist and help licensees?

Instead of the time-consuming task of mailing a license renewal, licensees can now renew their license using their CORE online account. CORE allows licensees to

process and pay online with a variety of payment methods and without additional online fees.

Q: How long has CORE been active?

CORE began implementation in 2015. Licensees access the system via an online account at <https://core.tn.gov> where they can use one account to access all the licenses they hold.

Q: Is CORE available for all licensees?

CORE is currently available to all licensees. As licenses come up for renewal, licensees are sent information which directs them to the site and provides them with instructions on how to complete the renewal process. Licensees can access the system via an online Internet account at <https://core.tn.gov> by entering their licenses number, last four digits of their Social Security Number, and ZIP code to gain access.

Q: Will there be more enhancements to CORE?

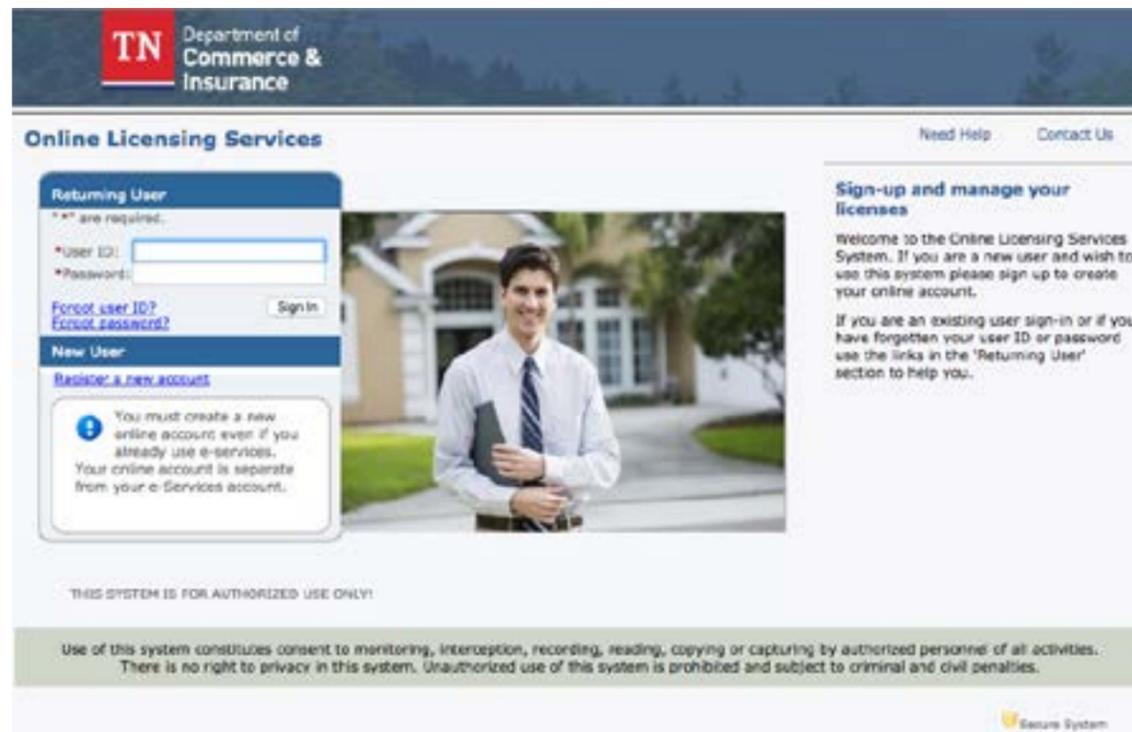
Yes. CORE has evolved each month since being launched last year. Future phases of CORE's implementation will focus on online applications for licensees, among other advancements.

Q: Can licensees register E & O insurance?

Insurance providers will be able to submit automated files to update coverage for renewing licensee accounts. Eventually, licensees will be able to attach insurance coverage documents during the initial licensure transaction.

Q: How does CORE benefit the Consumer?

CORE modernizes a licensing tool that's crucial to the Department's mission to protect Tennessee consumers. Further, CORE enhances our existing <http://verify.tn.gov/>.



Facebook: A Few Helpful Tips

Facebook has the potential to be a terrifying place. You've seen in the news about how this and other forms of social media have been used for hacking, identity theft, extortion and even robbery in some cases. But it doesn't have to be scary as long as you're careful about your posts and responses. This article takes a look at a few situations where it is important to be careful on Facebook.

With spyware that you may inadvertently install on your computer, your Facebook account can become compromised. This means someone else has access to it, which could lead to the exploitation of your email address, computer password and banking account information.

The damage doesn't have to stop there. Hackers can also send spam emails to your email contacts with bogus accounts that appear to be from banking institutions or credit card companies in an attempt to obtain login information and get other people's money. They can send your friends links to malicious spyware, malware or viruses that can compromise or render devices useless in an attempt to hack their accounts.

The good news is that you do have some measure of control over your own cyber-security. Here are a few helpful hints:

First, be mindful of what you post. If your status says, "I'm out of town for 6 days" or "I'll be home tomorrow," you could be giving thieves information that you are not home. They have the potential to rob you in the allotted timeframe presented. But if you limit your posts to vague details or privately message your friends, you're more effectively protecting your whereabouts.

Second, remember that Facebook statuses, tweets, and posts are all searchable on the Internet. Be careful that you don't make that mistake and broadcast your locations and situations to the world. Nothing on the Internet completely disappears. Once you publish it's out there forever.

Third, be careful whom you accept as a friend. Sometimes, people will try to imitate your identity in order to gain the trust of your friends. They will then attempt to exploit your friends into giving money or personal information. A good way of testing this is by searching for yourself on Facebook and Google.



Someone may be imitating your likeness.

Finally, be smart when dealing with locations on the Internet. Avoid clicking on pop-ups, advertisements or untrusted links. Make sure that the organization you are dealing with is credible and keep a watchful eye for people trying to exploit you.

All of this said; don't let ill-intentioned people sabotage your Internet experience. Facebook can be a fun and useful tool and a great way of keeping up with friends and relatives. Just be careful out there, and try to remember these tips.

By: Codey Cherry, IT Systems Specialist. Reprinted with Permission from AREC

2016 TREC Commission Meeting Schedule

January 6, 2016.....	9:00am	May 13, 2016*	*9:00am	September 8, 2016.....	9:00am
January 7, 2016.....	9:00am	June 1, 2016.....	9:00am	October 6, 2016*	*9:00am
February 10, 2016	9:00am	June 2, 2016.....	9:00am	October 7, 2016*	*9:00am
March 9, 2016.....	9:00am	July 6, 2016.....	9:00am	November 9, 2016.....	9:00am
March 10, 2016	9:00am	July 7, 2016.....	9:00am	November 10, 2016	9:00am
April 6, 2016	9:00am	August 10, 2016	9:00am	DECEMBER 2016.....	NO MEETING
April 7, 2016	9:00am	August 11, 2016	9:00am		
May 12, 2016 *	*9:00am	September 7, 2016.....	9:00am		

* Out of town Board Meeting

Commissioner Update

We welcome three new Real Estate Commissioners:



Fontaine M. Taylor

Memphis, Tennessee

Fontaine Taylor has been in the real estate business almost 30 years specializing in residential real estate. She was president of the Tennessee Association of Realtors in 2009, and president of the Memphis Area Association of Realtors in 2001. Fontaine is a vice president for Crye-Leike Realtors.



Johnny Horne (Public Member)

Chattanooga, TN

Johnny Horne is a senior pastor and founder of Solid Anchor Baptist Church. He is currently serving as vice chairman for the City of Chattanooga Human Service Advisory Board. Johnny is retired from the U.S. Airforce and a member of the Disabled Veterans.



Bobby Wood

Mount Juliet, TN

Bobby Wood has been in real estate for nearly 30 years. He is the broker/owner of RE/MAX Carriage House in Mount Juliet with over 30 licensees. In addition to selling real estate, Bobby has twice served as president of the Middle Tennessee Association of Realtors, as well as serving on the Regional MLS Committee. He also teaches Graduate REALTOR Institute (GRI) courses and continuing education courses to licensees.

Education Update

E. Ross White

Ross.White@tn.gov

Using the TREC Website to access education information.

[Complete Listing of Schools/Courses](#)

[Status for Licensees](#)

Commission Approval of Courses

Deadline for filing is the 15th of the preceding month prior to the next month's commission meetings. (4 digit registration number is a requirement on all education application forms.)

Roster Transmission

The rosters for courses need to be submitted to Ross.White@tn.gov.

Farewell to Betsy Bowman & Kenyon Spurlock

Betsy Bowman retires at the end of April after 13 years of service to the Tennessee Real Estate Commission. Ken Spurlock retires at the end of April after 44 years of service to the Tennessee Real Estate Commission.

New Courses, Providers and Instructors Approved

Over 122 new courses, 9 new providers and 38 new instructors have been approved since October. Check the TREC website for the latest update: <https://tn.gov/commerce/topic/rec-education>.

One of our online providers has gone through a name change: Kaplan Professional is now doing business as Virginia College, LLC

Bill Tune Certificate Recipients for Outstanding Educators for 2015

In December, the Tennessee Real Estate Commission named Grover Collins and Wendell Alexander recognizing their contributions to real estate education in Tennessee.

Legal Update

Disciplinary Action Report

The list of all disciplinary actions taken by the Commission can be found under the Disciplinary Action Report Link: <https://tn.gov/commerce/section/commerce-disciplinary-actions>. The list is updated monthly and reflects the regulatory boards alphabetically.



Follow Us

 www.tn.gov/commerce

 [/TennesseeCommerceAndInsurance](https://www.facebook.com/TennesseeCommerceAndInsurance)

 [/TNCommerceInsur](https://twitter.com/TNCommerceInsur)

 [@tncommerceinsur](https://www.instagram.com/tncommerceinsur)