

# Broker Responsibility Supplement

**Knowledge is the Vehicle – Service is the Goal**

*Serving Texas real estate licensees since 1987 with a dedication to quality real estate education.*

**Lloyd Hampton Real Estate Education**

**TREC Provider # 09844**

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### Regulations Brokers Must Know

The Texas Real Estate License Act and TREC Rules

→ → [www.trec.texas.gov](http://www.trec.texas.gov) ← ←

Texas Property Code, Chapters 91 & 92 (Landlord and Tenant Law)

→ → [www.capitol.state.tx.us](http://www.capitol.state.tx.us) ← ←

National Association of Realtors® (NAR) Code of Ethics

→ → [www.realtor.org](http://www.realtor.org) ← ←

Texas Department of Insurance, Procedural Rule 53

→ → [www.tdi.texas.gov](http://www.tdi.texas.gov) ← ←

Real Estate Settlement Procedures Act (RESPA)

Truth in Lending Act (TILA)

Consumer Financial Protection Bureau Rules

→ → [www.consumerfinance.gov](http://www.consumerfinance.gov) ← ←

Can-Spam Act & FTC Telemarketing Sales Rules (Do Not Call/Email/Fax)

→ → [www.ftc.gov](http://www.ftc.gov) ← ←

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### The Acts of Brokerage

- 1) sells, exchanges, purchases, or leases real estate;
- 2) offers to sell, exchange, purchase, or lease real estate;
- 3) negotiates the listing, sale, exchange, purchase, or lease of real estate;
- 4) lists or offers, attempts, or agrees to list real estate for sale, lease, or exchange;
- 5) auctions or offers, attempts or agrees to auction real estate;
- 6) deals in options on real estate;
- 7) aids, or offers to aid in locating or obtaining real estate for purchase or lease;
- 8) assists in procuring a prospect to effect the sale, exchange or lease of real estate;
- 9) assists in procuring a property to effect the sale, exchange or lease of real estate;
- 10) controls the acceptance or deposit of rent from a resident of a single family unit;
- 11) provides a written analysis/opinion relating to the estimated price of property;
- 12) offers advice concerning the negotiation or completion of a short sale.

## The exceptions as per §1101.005 of TRELA:

- (1) an attorney licensed in this state;
- (2) an attorney-in-fact under a POA;
- (3) a public official while engaged in official duties;
- (4) auctioneer if the auctioneer does not perform other acts of broker;
- (5) a person under a court order or authority of a will or written trust;
- (6) a person performing on-site new home sales;
- (7) an on-site manager of an apartment complex;
- (8) an owner's employee who leases the owner's real estate;
- (9) a transaction involving:
  - (A) the sale, lease, or transfer of a mineral or mining interest;
  - (B) the sale, lease, or transfer of a cemetery lot;
  - (C) the lease or management of a hotel or motel; or
  - (D) the sale of real property under a power of sale.

## Section 1101.652

### Grounds for Suspension or Revocation of License

(a) The commission may suspend or revoke a license or take other action if the license holder:

- (1) enters a plea of guilty or nolo contendere to or is convicted of a felony involving fraud;
- (2) procures or attempts to procure a license by fraud, misrepresentation, or deceit;
- (3) engages in misrepresentation or fraud when selling/buying/leasing in the name of:
  - (A) the license holder;
  - (B) the license holder's spouse; or
  - (C) the license holder's parent or child;
- (4) fails to honor, within a reasonable time, a check issued to the commission;
- (5) fails to produce to the commission a document, book, or record in licensee's possession;
- (6) fails to provide, within a reasonable time, information requested by the commission;
- (7) fails to surrender to the owner a document that is in the license holder's possession;
- (8) fails to use a contract form required by the commission;
- (9) fails to notify the commission the person has been convicted of a felony involving fraud.

**TREC Broker Responsibility Course****Page NIB****Let's Talk Team Names – Broker is ABC – Agent is John Smith****What you can't use:**

John Smith Properties  
 John Smith and Associates  
 John Smith Company  
 John Smith Realty  
 John Smith Real Estate  
 John Smith Homes  
 John Smith Services  
 John Smith, Realtor®  
 John Smith, Owner  
 John Smith, CEO  
 John Smith, President  
 John Smith, Partner

**What you may use:**

John Smith Team  
 John Smith Group  
 John Smith Properties Team  
 John Smith Realty Team  
 John Smith Real Estate Team  
 John Smith Homes Team  
 John Smith Services Team  
 John Smith, Realtor® Team

Remember that "Properties",  
 "Homes", and "Real Estate" do not  
 identify you as a license holder!

**Lloyd Hampton Real Estate Education****www.LHREE.com****Paying commissions to lawyers:**

Texas Real Estate License Act §1101.652(b)(11)

Pays a commission or a fee to a person other than a license holder or a real estate broker or salesperson licensed in another state for compensation for services as a real estate agent.

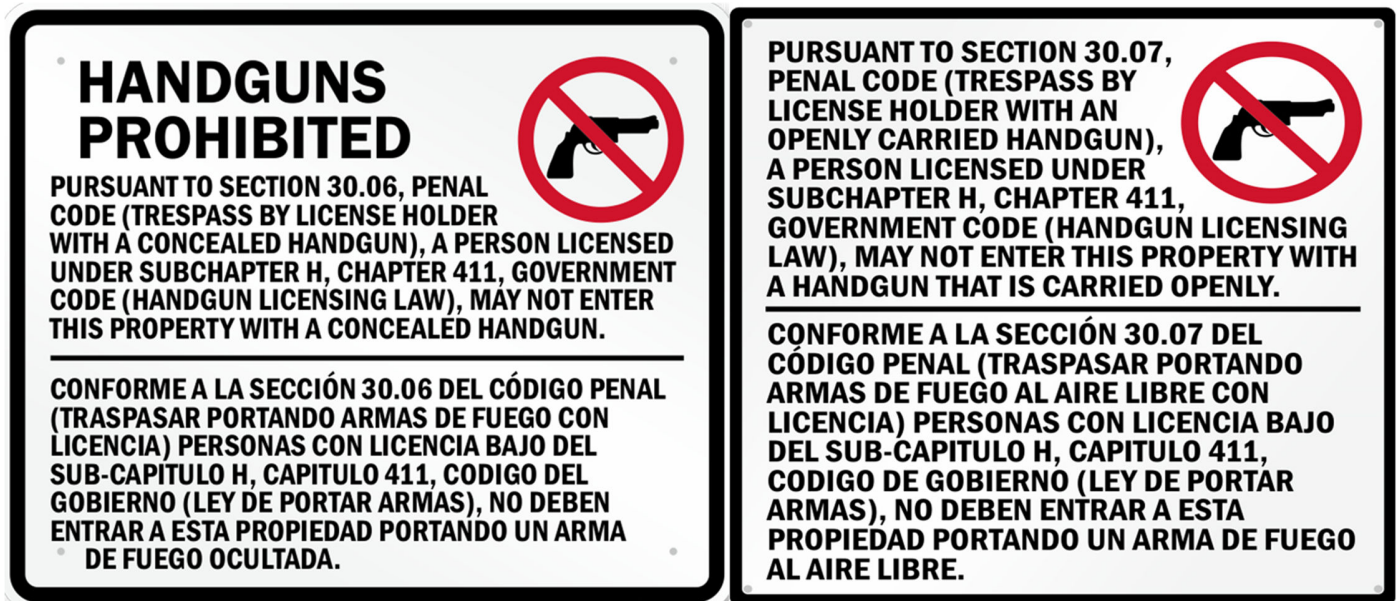
Texas Real Estate License Act §1101.002(4)

"License holder" means a broker or salesperson licensed under this chapter.

Burchfield vs. Markham - 294 SW 2nd 795 - Texas Supreme Court - 1956

**Unlicensed Assistants**

Section 535.4(c) Unless otherwise exempted by the Act, a person must be licensed as a broker or sales agent to show a property. For purposes of this section, "show" a property includes permitting the property to be seen by a prospective buyer or tenant, unlocking or providing access onto or into a property, or hosting an open house.



## **TRELA Section 1101.652(b)(22);**

**The commission may suspend or revoke a license if the license holder: negotiates or attempts to negotiate the sale, exchange, or lease of real property with an owner, landlord, buyer, or tenant with knowledge that that person is a party to an outstanding written contract that grants exclusive agency to another broker in connection with the transaction.**