

Lloyd
Hampton
Real
Estate
Education



Presents:

1 Hour of Continuing Education

Don't Get Sued!

Knowledge is the Vehicle – Service is the Goal

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

TREC Provider # 09844

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Recommendations for not getting sued

1. Direct questions outside your area of expertise elsewhere.
2. Recommend inspections.
3. State facts, not opinions. If you aren't sure it's better to say "I don't know."
4. Find help. Brokers, sales managers, appraisers, lawyers, surveyors, etc.
5. Disclose! Disclose known defects, agency, and material facts.
6. Take notes. Detailed notes on events and conversations can save you.
7. Continue your education. It is a never ending process.
8. Encourage use of home warranties.
9. Be the source of the source. Refer people to where they can find more info.
10. Use written information from other sources. (TAR has a form for this.)
11. Do not get pulled into discussions on who gets the earnest money.
12. Do not get pulled into discussions on whether a party is in default.
13. Separate practicing real estate from practicing law.
14. Know the laws, rules, and regulations that impact your practice.
15. Handle trust funds properly.
16. Review all advertising and confirm compliance.
17. Be able to properly fill out the TREC promulgated forms.
18. Keep good records and retain those records for at least 4 years.
19. Be careful what you communicate by text or email.
20. Remember that you are the agent, not the principal.
21. Do not make decisions for your client! Make recommendations.
22. Present all offers unless you have written instructions from your client.
23. Do not indulge in unlawful pocket listings.
24. Handle intermediary transactions properly.
25. Handle rebates and referrals properly.
26. Put your client's interests first, above all others, even above your own.
27. Treat all other parties honestly and fairly.
28. Learn to be accurate in all your communications with others.
29. Obedience, loyalty, disclosure, confidentiality, accounting, reasonable care.
30. Be familiar with the TREC grounds for suspension or revocation.

TRELA §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) fails to honor, within a reasonable time, a check issued to the commission;
 - (4) fails to provide, within a reasonable time, information requested by the commission;
 - (5) fails to surrender to the owner a document that is in the license holder's possession;
 - (6) fails to consider market conditions for the specific geographic area in which the licensee acts;
 - (7) fails to notify the commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud;
 - (8) disregards or violates this chapter.
- (a-1) The commission may suspend or revoke a license issued under this chapter or take other disciplinary action authorized by this chapter if the license holder:
- (1) engages in misrepresentation, dishonesty, or fraud when selling, buying, trading, or leasing real property in the name of:
 - (A) the license holder;
 - (B) the license holder's spouse; or
 - (C) a person related to the license holder within the first degree by consanguinity;
 - (2) fails or refuses to produce on request, within a reasonable time, a document, book, or record in the license holder's possession and relates to a transaction conducted by the license holder; or
 - (3) fails to use a contract form required by the commission under Section 1101.155.
- (b) The commission may suspend or revoke a license if the license holder:
- (1) acts negligently or incompetently;
 - (2) engages in conduct that is dishonest, in bad faith or that demonstrates untrustworthiness;
 - (3) makes a material misrepresentation concerning a significant defect known to the licensee;
 - (4) fails to disclose to a defect described by (3) known to the license holder;
 - (5) makes a false promise to influence a person to enter into an agreement;
 - (6) makes false promises through an agent or salesperson, through advertising, or otherwise;
 - (7) fails to make clear to all parties for whom the license holder is acting;
 - (8) receives compensation from more than one party without the full consent of all parties;
 - (9) fails in a reasonable time to properly account for or remit money that belongs to another;
 - (10) commingles money that belongs to another person with the license holder's own money;
 - (11) pays a commission to a person other than a license holder in this state or another state;
 - (12) fails to specify a definite termination date not subject to prior notice in agency contracts;
 - (13) accepts an undisclosed commission/rebate/profit on expenditures made for a principal;
 - (14) solicits, sells, or offers for sale real property by means of a lottery;
 - (15) solicits, sells, or offers for sale real property by means of a deceptive practice;
 - (16) acts in the dual capacity of broker and undisclosed principal in a transaction;
 - (17) guarantees that future profits will result from a resale of real property;
 - (18) places a sign offering property for sale or lease without written consent of the owner;
 - (19) offers to sell or lease real property without the knowledge and consent of the owner;
 - (20) offers to sell or lease real property on terms other than those authorized by the owner;
 - (21) induces a party to break a contract for sale or lease to substitute a new contract;
 - (22) negotiates with a principal knowing that person is the exclusive client of another broker;

- (23) publishes or causes to be published an advertisement that:
- (A) misleads or is likely to deceive the public;
 - (B) tends to create a misleading impression;
 - (C) implies that a sales agent is responsible for the operation of the broker's business; or
 - (D) fails to include the name of the broker for whom the license holder acts;
- (24) withholds/inserts into an invoice a statement the licensee knows is materially inaccurate;
- (25) publishes or circulates an unjustified or unwarranted threat of a legal proceeding;
- (26) establishes an association with an unlicensed who is expected to act as a license holder;
- (27) aids, abets, or conspires with another person to circumvent this chapter;
- (28) fails to provide, on request, a copy of a document to a person who signed the document;
- (29) fails to advise a buyer in writing before the closing of a transaction that the buyer should:
- (A) have an abstract examined by attorney chosen by the buyer; or
 - (B) get title insurance;
- (30) fails to deposit, within a reasonable time, money the licensee receives as escrow agent;
- (31) disburses money deposited before completion or termination of the transaction;
- (32) discriminates due to race, color, religion, sex, disability, familial status, national origin.

Resources

- ❖ Texas Real Estate License Act www.trec.texas.gov
- ❖ Rules of the Texas Real Estate Commission www.trec.texas.gov
- ❖ REALTOR® Code of Ethics www.texasrealestate.com
- ❖ REALTOR® MLS Rules www.har.com
- ❖ Texas Law www.capitol.state.tx.us
- ❖ Federal Law <http://uscode.house.gov>
- ❖ The Real Estate Center www.recenter.tamu.edu
- ❖ Texas Department of Insurance Rule 53 www.tdi.texas.gov
- ❖ Can-Spam Act & Telemarketing Rules www.ftc.gov
- ❖ Real Estate Settlement Procedures Act www.consumerfinance.gov
- ❖ Truth in Lending Act (TILA) www.consumerfinance.gov
- ❖ Consumer Financial Protection Bureau www.consumerfinance.gov
- ❖ Landlord-Tenant Law www.capitol.state.tx.us
 - Click on "Statutes"
 - Click on "Property Code"
 - Select the following chapters:
 - Chapter 24 – Forcible Entry and Detainer (Eviction)
 - Chapter 54 – Landlord's Liens
 - Chapter 91 – Generally Applicable to Landlords & Tenants
 - Chapter 92 – Residential Tenancies
 - Chapter 93 – Commercial Tenancies
 - Chapter 94 – Manufactured Home Tenancies