

THIRD EDITION

TEXAS

REAL ESTATE EXAM PREP WORKBOOK

Dearborn[™]
Real Estate Education

Texas Real Estate Exam Prep

Workbook

Third Edition

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

TEXAS REAL ESTATE EXAM PREP WORKBOOK, THIRD EDITION

©2022 Kaplan, Inc.

Published by DF Institute, Inc., d/b/a Dearborn Real Estate Education

332 Front St. S., Suite 501

La Crosse, WI 54601

All rights reserved. The text of this publication, or any part thereof, may not be reproduced in any manner whatsoever without written permission from the publisher.

10 9 8 7 6 5 4 3 2 1

ISBN: 978-1-0788-1915-2

10 9 8 7 6 5 4 3 2 1

ISBN: 978-1-0788-1916-9 (custom)

Contents

Preface v

UNIT 1

Commission Duties and Powers 1

- I. General Powers 1
- II. Handling of Complaints 3
- III. Penalties for Violation 3
- Review Questions 6

UNIT 2

Licensing 9

- I. Activities Requiring License 9
- II. License Maintenance and Renewal 14
- Review Questions 16

UNIT 3

Standards of Conduct 21

- I. Professional Ethics and Conduct 21
- II. Grounds for Discipline 22
- III. Unauthorized Practice of Law 23
- IV. Trust Accounts 23
- V. Splitting Fees 24
- VI. Rebates 25
- VII. Advertising 26
- Review Questions 27

UNIT 4

Agency/Brokerage 33

- I. Disclosure 33
- II. Intermediary Practice 36
- III. Duties to Client (Including Minimum Services) 37
- IV. Broker-Sales Agent Relationships; Broker's Responsibility for Acts of Sales Agent and Broker Associates 37
- V. Appropriate Use of Unlicensed Assistants 38
- Review Questions 39

UNIT 5

Contracts 45

- I. Promulgated Contracts, Forms, and Addenda 45
- II. Statute of Frauds 50
- III. Seller Disclosure Requirements 50
- Review Questions 52

UNIT 6

Special Topics 57

- I. Community Property 57
- II. Homestead Protections and Tax Exemptions 58
- III. Deceptive Trade Practices Act 59
- IV. Wills and Estates 61
- V. Landlord-Tenant Issues 61
- VI. Foreclosure and Short Sales 63
- VII. Recording Statutes 64
- VIII. Mechanic's and Materialman's Liens 64
- IX. Veterans Land Board 65
- X. Homeowners Associations 65
- XI. Equitable Interest 66
- Review Questions 67

Answer Key 73

Preface

STATE-SPECIFIC PORTION REVIEW

The state-specific portion for sales agents contains 30 scored questions—for brokers it's 50 scored questions—and reflects the current Texas real estate laws, rules, and regulations. The examination also contains 5–10 pretest items. Pretest items are not identified and will not affect a candidate's score in any way. Because pretest items look exactly like scored items, candidates should answer all the items on the examination. Topics covered in the state-specific portion are listed below.

Commission Duties and Powers (Sales Agent – 2 Items, Broker – 3 Items)

Topics include general powers: composition, duties, and powers, real estate advisory committees; handling of complaints: investigations, hearings, and appeals; and penalties for violation: unlicensed activity, authority for disciplinary actions, and recovery trust account.

Licensing (Sales Agent – 2 Items, Broker – 4 Items)

Topics include activities requiring license: scope of practice, exemptions, business entities, non-resident brokers, inspectors, and appraisers; and license maintenance and renewal: continuing education, place of business, change of sales agent sponsorship, inactive status, and assumed names.

Standards of Conduct (Sales Agent – 7 Items, Broker – 9 Items)

Topics include professional ethics and conduct; grounds for suspension and revocation; unauthorized practice of law; trust accounts; splitting fees (vs. permissible rebates); and advertising rules.

Agency/Brokerage (Sales Agent – 8 Items, Broker – 10 Items)

Topics include disclosure; intermediary practice; duties to client (including minimum services); broker-sales agent relationships; broker's responsibility for acts of sales agent; and appropriate use of unlicensed assistants.

Contracts (Sales Agent – 7 Items, Broker – 8 Items)

Topics include use and understanding of standard contract forms; statute of frauds; and seller disclosure requirements.

Special Topics (Sales Agent – 4 Items, Broker – 6 Items)

Topics include community property; homestead; Deceptive Trade Practices Act; wills and estates; landlord-tenant issues; foreclosure and short sales; recording statutes; mechanic's and materialman's liens; Veterans Land Board; homeowners associations; and equitable interest.

SAMPLE



Commission Duties and Powers

■ LEARNING OBJECTIVE

When you have completed this unit, you will be able to accomplish the following.

- **Identify** the purpose of licensing laws, the activities that require a license, the situations that may not require a license, and the types of license categories.

I. GENERAL POWERS

A. Composition

1. Texas Real Estate License Act (TRELA) and the Texas Real Estate Commission (TREC)
 - a) The primary purpose of TRELA and TREC is to protect the public of the State of Texas.
 - b) TRELA is the law that governs all real estate license holders and sets the powers for TREC.
2. Commission composition
 - a) Nine members— six brokers and three members of the general public
 - b) Appointed by the governor, with the advice and consent of the state senate, serve staggered six-year terms
 - c) One broker designated by the governor as chairperson

B. Duties and powers

1. Make and enforce rules and regulations
2. Establish standards of conduct and ethics for license holders

3. Administer and enforce license law and levy civil fines
4. Select an administrator and employees to administer the law
5. Issue active and probationary licenses and collect money for licenses and renewals
6. Conduct investigations (within four years after the incident), hold hearings, and issue injunctions
7. Suspend or revoke a license, and place on probation or reprimand a license holder
8. Initiate a cease and desist action
9. Inspect and accredit real estate education programs
10. Promulgate contracts and addenda
11. Enforce the Texas Timeshare Act

Note: TREC will not:

- Mediate or settle commission or other disputes between license holders or brokerage firms
- Recommend individual license holders to the public
- Send license holders to jail

C. Real estate advisory committees

1. Broker-Lawyer Committee
 - a) Functions
 - (1) Drafts, revises, and recommends contract forms intended for use by license holders
 - (2) Does not publish, promulgate, or approve the forms; only TREC may promulgate or approve real estate contract forms
 - b) Makeup
 - (1) Consists of 13 members
 - (a) Six brokers appointed by the Commission
 - (b) Six lawyers appointed by the president of the State Bar of Texas
 - c) One public member appointed by the governor
 - (1) Members serve staggered six-year terms.
 - (a) Terms for two brokers and two lawyers expire every two years.
 - (b) The public member's term expires every six years.

2. Education Standards Advisory Committee (ESAC)

a) Function

- (1) This committee reviews and revises education curriculum standards, course content requirements, and instructor certification requirements for all qualifying and continuing education (CE) courses.

b) Makeup

- (1) Consists of 12 members
 - (a) Seven active license holders (sales agents or brokers)
 - (b) Must have at least five years' active real estate experience
 - (c) Four education members who are TREC-approved real estate instructors or owners of approved real estate schools
 - (d) One public member

II. HANDLING OF COMPLAINTS

A. Investigations

1. The Commission may initiate investigations on its own or in response to a signed written complaint.
2. The Commission will give priority to the investigation of a complaint filed by a consumer or from an enforcement case resulting from the consumer complaint.
3. The Commission uses a risk-based approach to assign priorities and investigate complaints.
4. It pursues those with the highest impact to the public first.

B. Hearings and appeals

1. If, after investigation, the Commission determines it is appropriate to deny, suspend, or revoke a person's license or certificate, the license holder is entitled to a hearing conducted by the State Office of Administrative Hearings (SOAH).
2. TREC has the power to subpoena witnesses and documents for the hearing and may file suit through the attorney general.
3. Failure to obey a court order may be punished by the court as contempt.
4. Appeals of the TREC decision may be made to a district court.

III. PENALTIES FOR VIOLATION

A. Penalties for violation

1. After the hearing, the commissioners may
 - a) revoke a license,
 - b) apply monetary fines, or
 - c) suspend a license.

2. A principal broker whose license is suspended must
 - a) notify all the firm's sales agents and parties to existing contracts,
 - b) notify any business entity for which the person is a designated broker, and
 - c) remit the escrow or trust money (if held by the broker) in accordance with instructions of the contract principals.
3. A sales agent whose license is suspended must notify the sponsoring broker.
4. TREC can issue administrative penalties for violations.
 - a) The penalty may not exceed \$5,000 per day for each violation.
 - b) However, each day a violation continues, it may be considered a separate violation for purposes of imposing a penalty.

B. Unlicensed activity

1. In Texas, a person who acts as a real estate license holder without an active real estate license is guilty of a Class A misdemeanor.
 - a) Punishable by a maximum \$4,000 fine, up to one year in jail, or both
 - b) Pursue administrative penalties up to \$5,000 for each violation
2. Practicing without a license
 - a) Punishable by a court, which may charge a penalty of one to three times the total money received

C. Authority for disciplinary actions

1. In addition to TREC's authority to revoke a license, or suspend a license, TREC may require a license holder whose license suspension or revocation is probated to
 - a) report regularly to the commission on matters that are the basis of the probation;
 - b) limit practice to an area prescribed by the commission; or
 - c) continue to renew professional education until the license holder attains a degree of skill satisfactory to the commission in the area that is the basis of the probation.

D. Recovery trust account

1. This account is maintained by TREC.
 - a) Funds in the account must total \$1 million at minimum.
2. The purpose of the account is to reimburse consumers who suffer damages caused by real estate license holders, certificate holders, or their employees.
3. Brokerage firms must display the Consumer Protection Notice in a prominent location in each location, notifying the public of the availability of the recovery fund.
4. The account is funded from license fees.
 - a) At time of application, the applicant pays \$10 into the trust account.

- b) If the amount in the trust account drops below \$1 million, each license holder is assessed \$10 or a pro rata share at the time of renewal to bring the trust account back up to \$1.7 million.
- 5. Consumers must apply within two years of the cause of action or offense.
- 6. Recovery maximums are as follows:
 - a) \$50,000 per transaction, regardless of the number of claimants
 - b) \$100,000 total per license holder, regardless of the number of claims
- 7. Remedies against license holders if funds are used are as follows:
 - a) The Commission may revoke a license if the Commission makes a payment from the Real Estate Recovery Trust Account to satisfy all or part of a judgment against the license holder.
 - (1) TREC may issue a probationary license instead of revoking.
 - b) Renewal of a license or a certificate will be held until repayment of the full amount plus interest.

ABOUT DEARBORN REAL ESTATE EDUCATION

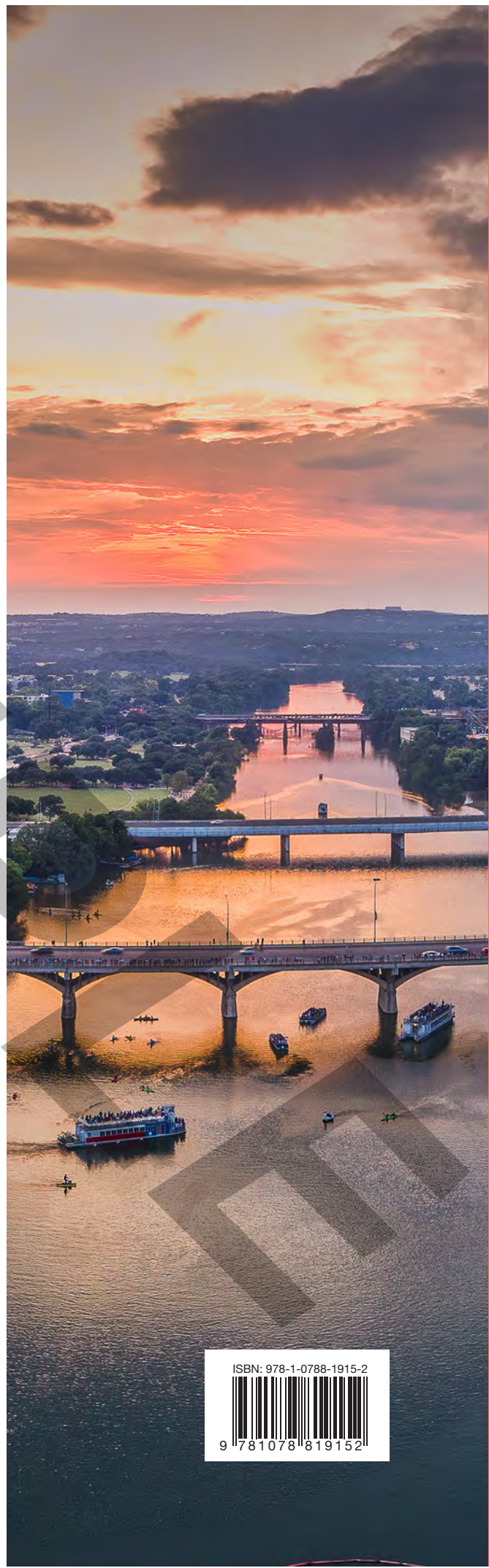
For over 60 years, Dearborn has set the standard for real estate education. As a full-service educational publisher, Dearborn offers the best content and support services in the industry. With unsurpassed experience and understanding of the real estate training industry, you can ensure your success with Dearborn.

The strength of our experience lies in our dedication and ability to continually produce the highest quality, up-to-date real estate educational and training content. Our seasoned authors have years of real-world experience and our content spans every stage of a real estate professional's career from prelicensing, exam prep, and continuing education to broker, appraisal, home inspection, and professional development.

Dearborn[™]
Real Estate Education

www.dearborn.com, 800.972.2220

For comments or queries about this product,
please email us at contentinquiries@dearborn.com.



ISBN: 978-1-0788-1915-2



9 781078 819152