

Real Estate news-journal

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CORRESPONDENCE COURSES

The Association of Real Estate License Law Officials (ARELLO) will no longer certify correspondence and web enhanced delivery courses beginning September 30, 2012. ARELLO will only certify internet based courses which will include synchronous and some CD-ROM courses. The reason for this change is to certify the process and to protect the public by ensuring Licensees are completing the courses with out abuse. ARELLO commits to work on a course by course basis with the commission for any continuing education courses effective between September 30, 2012 and December 31, 2012.

Dear Licensees,

Please take a moment to read our current TREC News-Journal. The Fall 2010 News-Journal will focus on the E & O Policy and the importance of maintaining E & O coverage. Also featured is an inside look into what practices and actions are most likely to result in finding yourself the respondent in a TREC complaint. Changes in the Vacation Lodging Services industry, helpful tips and licensing statistics all help to contribute to making the TREC News-Journal the source for up to date news.

From the Tennessee Real Estate Commission, we hope you find this Fall 2010 News-Journal helpful and informative. Look for the Winter edition to be online January 2011.

Kindest Regards,



Eve M. Maxwell, Executive Director



Stephen D. McDonald, Education Director

Understanding Your E&O Insurance Policy — Policy Limits

“Grissom, Cindy Rice”. Owner, Rice Insurance Services Company, LLC. Retrieved October 2010, from article authored by Cindy Rice Grissom.

The group policy issued to the Tennessee Real Estate Commission on behalf of its Licensees provides \$100,000 per claim Limits of Liability with \$300,000 Annual Aggregate Limits per Licensee. This means that the insurance company will pay up to \$100,000 per Licensee per Claim for Damages. The “Aggregate Limit” is the maximum the Company will pay for all Claims made during the

cont. next page

Policy Limits...cont.

Individual Policy Period and any Extended Reporting Period.

In addition to the Limits of Liability, the insurance company will pay Claim Expenses in connection with covered Claims. Claim Expenses are in addition to the Limits of Liability. This means that the policy limits are not reduced by the Claims Expenses incurred to defend the Claim. For example, if the covered damages are \$100,000 (policy limits) and the legal fees for defending the Claim are \$300,000, then the insurance company will pay the \$100,000 Damages plus the \$300,000 legal fees, for a total payout of \$400,000 for the Claim.

The \$100,000 per claim damages limit provided by the group policy is adequate to cover the majority of Claims handled by the administrator for the Tennessee group policy.

Rice Insurance Services Company, LLC (RISC) is the current administrator for the Tennessee group policy. The management team of RISC specializes in handling group programs for states with mandatory real estate errors and omissions (E&O) insurance requirements and has been managing the Tennessee group program since 1991 (with the exception of a two-year period).

Our claims department has handled approximately 9,750 real estate E&O claims to closure. Only 47 of those claims resulted in payment by the insurance company of a judgment or settlement of \$100,000 or more. Nineteen of those claims (40% of the policy limit claims) involved commercial transactions. Five of the high dollar claims (10%) involved property management. Three (6%) involved appraisals. When you consider the limited number of Real Estate Licensees involved in property management and appraisals, the number of policy limits claims involving property management and appraisals is disproportionately high.

Based on our experience, it is unlikely

that an honest mistake would trigger an award of damages exceeding \$100,000 against a real estate licensee. However, in commercial transactions, property management and appraisal activity, the likelihood of a high dollar judgment significantly increases.

In addition to the categories of claims listed above, we have also handled to conclusion a small number of claims where a finding of fraud resulted in a high dollar judgment. Of course, in the event of a fraud judgment or finding of an intentional act, there is no insurance coverage. Therefore, the judgment would be the responsibility of the licensee and would not be paid by the insurance company.

Many Licensees prefer to have increased protection in order to avoid the financial consequences of a judgment which exceeds the per claim policy limits. If damages are awarded that exceed the policy limits of the insurance coverage, the licensee may be personally liable for the amount not covered. Licensees involved in higher risk activities (such as those who sell or lease large commercial properties, perform appraisals or perform property management) should consider carrying limits higher than the minimum amount required by law. Licensees who deal in commercial real estate transactions may wish to purchase excess insurance over the \$100,000 per claim limits required by law or consider purchasing other coverage available on the open insurance market which may provide specialized coverage designed specifically for their needs. It is surprising that some major commercial firms carry only the minimum insurance required. If you are involved in multi-million dollar commercial transactions, you should be carrying higher limits to protect yourself from a large claim. Some real estate firms focus primarily on residential sales and are not considered high risk, but may still want the assurance and peace of mind carrying higher policy limits affords. We are seeing an increase in high dollar demands and more complex claims in recent years.

To address the need for higher limits, our Tennessee program offers higher limits for individual Licensees in the amount of \$250,000 per claim per licensee.

RISC also offers a program that provides excess coverage above the Tennessee group program for real estate firms desiring policy limits higher than those provided by the individual coverage available under the group program. Excess coverage provides the firm with policy limits above the individual Licensees' \$100,000 limit and is available to real estate firms on an underwritten basis. The excess program offers three (3) options with different policy limits up to \$1,000,000. The excess program coverage will meet most franchise requirements for higher limits and additional insured language.

As the excess policy is issued to the firm, all Licensees affiliated with the real estate firm are insured by the excess policy. In addition, all of the firm's Licensees are required to purchase and maintain coverage pursuant to the underlying E&O program offered by RISC. The premium for the excess coverage will be in addition to the underlying insurance premium charged by RISC. The excess policy will not apply until all applicable limits of the individual Licensees' underlying insurance have been exhausted.

Be aware that when purchasing higher limits from any insurance carrier, you need to ensure that the excess policy language reads as a true excess policy. We had a recent commercial case in which the "excess policy" contained language stating that the coverage would not apply to claims in the event there was other insurance that applied to the claim. Obviously, the insured real estate firm would not have purchased the other policy if it had known that this "other insurance" provision was in the policy, since the firm had continuously purchased this additional policy to apply as an "excess policy" in addition to the \$100,000 per licensee limits of the group program. Unfortunately, the \$1,000,000

ERRORS & OMISSIONS INSURANCE

Broker's Name	Principal Broker	Firm	City	State
ADAM PAUL FAULK		JACKSON & COOKSEY, INC. A TEXA	DALLAS	TX
ANDREW "ANDY" C. RUCKER		GRAND CROWNE RESORTS	PIGEON FORGE	TN
APRIL KELLY PERKINS		RANDALL PERKINS GROUP,LLC	OLIVE BRANCH	MS
BEVERLY L RAUSCH	PAULA FAIRCHILD	PLMPR,LLC/DBA/EXIT REAL ESTATE	HERMITAGE	TN
CHARLES ELLIS SWAIN	JONATHAN BARRY	SPECTRUM DBA COLLIERS	ATLANTA	GA
COLUMBIA MADONNA DORMINEY	JEFFREY "JEFF" CAMPEAU		CLARKSVILLE	TN
CURTIS C GRANTHAM		TRAMMELL CROW SERVICES, INC	CHARLOTTE	NC
DANIEL "DAN" E PATTERSON		GRAND CROWNE RESORTS	PIGEON FORGE	TN
DAPHNE O BATTLE	WILLIAM "ED" SCHREINER	SIGNATURE REALTY, LLC	SOUTHAVEN	MS
EILEEN P. HOWELL		ATLANTIC & PACIFIC REAL ESTATE	WOODSTOCK	GA
FRANK K NORTON JR		THE NORTON AGENCY	GAINESVILLE	GA
GLORIA LINDSEY	ALLISON SPENCER	RE/MAX ADVANTAGE, LLC	SOUTHAVEN	MS
HARRY E FONTAINE		QUAILTY HOME NETWORK, LLC DBA	KINGSPORT	TN
HARRY "RYE" GREGORY AUSTIN III	JOHN WATSON	ORVIS/CUSHMAN & WAKEFIELD	COLORADO SPRINGS	CO
HEATHER DAWN LYONS	JENNIFER MCAFFEE	WH MCAFFEE, LLC	MCDONOUGH	GA
JANET RENEE KRUDER	AARON BRYAN	WYNDAM VACATION RESORTS, INC	NASHVILLE	TN
JASON ALAN COUSAR		WEST BANKHEAD PROPERTIES, INC	NEW ALBANY	MS
JEFFREY A. DUNCAN		SOUTHERN REAL ESTATE SERVICES/	SCOTTSVILLE	KY
JIMMIE "JAMIE" LAWRENCE GREENWAY	DANNY BOWMAN	RELIANT REALTY	NASHVILLE	TN
JONETTA SKIPPER	KRYSTAL KIRKMAN	KIRKMAN REAL ESTATE INC	HOPKINSVILLE	KY
KEITH J WIDNER	AARON BRYAN	WYNDAM VACATION RESORTS, INC	NASHVILLE	TN
KENT SEARS	ROBERT "BOB" SILER	US GOLD REALTY	CORBIN	KY
LORANN LORA ROBINSON	CLAUDIA STINSON-TURNER	CRYE-LEIKE, INC.	GERMANTOWN	TN
LYNN OWEN	MYRA QUINLEY	CRYE-LEIKE, REALTORS	GERMANTOWN	TN
MARK WILLIAM MCCORMACK		THE MATTIACE COMPANY	JACKSON	MS
MARTIE JOE CRADDIETH		MARTIE J CRADDIETH	JACKSON	MS
MIRIAM "MARCH" MARCHANT MIMS		SOUTHERN LAND CO	GERMANTOWN	TN
NANNETTE DESHAZO	RONALD SELLERS	PRUDENTIAL COLLINS-MAURY INC.	SOUTHAVEN	MS
PALMER E. HACKER		PALMER HACKER REALTY	OLIVE BRANCH	MS
PAUL W MCELYEA		PMC REAL ESTATE SERVICES, LLC	HERNANDO	MS
RITU PAREEK	PAUL MCELYEA	PMC REAL ESTATE SERVICES, LLC	HERNANDO	MS
ROBERT D. HALEY	THOMAS HUNT	THOMAS R. HUNT AUCTIONEERS	BOWLING GREEN	KY
THOMAS "TOM" JOSEPH MONIAK	GAIL JOHNSON	CRYE-LEIKE REALTORS, INC.	FRANKLIN	TN
WESLEY G THOMPSON		THOMPSON COMPANY PROPERTIES, L	OLIVE BRANCH	MS
WILLIAM "BILL" GEORGE HALL	CARLA DUNN	QUAILTY HOME NETWORK, LLC DBA	KINGSPORT	TN
WILLIAM M. DAVIS	PAUL MCELYEA	PMC REAL ESTATE SERVICES, LLC	HERNANDO	MS
WILLIAM MILLER		WILLIAM A MILLER CO	JOHNSON CITY	TN

As of 09/27/2010, the following individuals have not provided evidence of errors and omissions insurance coverage as required by §62-13-112 and Tenn. Comp. R. & Regs. 1260-1-.15.* The Tennessee Real Estate Commission will make future lists available in every edition of the *News-Journal*. *the aforementioned allegations have not been adjudicated.

HOW TO AVOID A COMPLAINT

TREC's attorney Robyn Ryan states, "Beginning August 2009, there were 321 open complaints, with less than 50 being E&O matters. On December 15, 2009 there were 188 open complaints. Several months after the start of the new E&O term on March 3, 2010, the legal staff had 165 open complaints of which 54 were pertaining to E&O matters. On June 9, we had 416 open complaints of which 363 were E&O matters. On August 26, we had 243 complaints and 212 were E&O matters. At present, we have 150 new E&O complaints to file and otherwise, have about 50-60 complaints. Most of those are against the same party." The end of the year is looming so eliminate the risk of having a complaint filed against you by renewing your E&O before January 1, 2011.

Contracts and documents represent an area of complaints and not every licensee will use a TAR form for a real estate transaction. 80% of our Licensees belong to an association of REALTORS®, but 20% do not. Regardless of the form, the contract will still need to be handled with the same precision. Each copy of the offer or contract must be legible with all changes initialed and dated in the proper place.

Time is of the essence so immediately after a listing, sale, lease or any other contract relevant to a real estate transaction, a copy of that document must be provided to all that have signed on that document. Having your clients come to your office is most advantageous to ensure they receive a

copy. If you are out in the field and away from your office, have your clients follow you to a business that offers a copy service.

TREC also requires any licensee who provides real estate services in a transaction to diligently exercise reasonable skill and care, disclose to each party to the transaction any adverse facts that the licensee has noticed or has knowledge, provide service in honesty and good faith, and timely account for trust deposits. Following these laws will have a direct impact on a licensee having a clean license history. For more information or reference, §§§ 62-13-112, 62-13-312, 62-13-403.



Some interesting statute changes have impacted the Vacation Lodging Service industry. TREC began regulating the vacation lodging service industry in 1998 which was previously regulated by the Department of Consumer Affairs. In the last year, members of the industry and TREC commissioners have joined together to tighten up the statute and rules pertaining to the industry. It is important to note that the Vacation Lodging Services is still an exemption to the Broker's Act.

The term "designated agent" shall mean an owner, principal, officer of upper

level manager of a vacation lodging service firm. The designated agent may serve as a designated agent for multiple offices of the same vacation lodging service firm within a fifty (50) mile radius of the principal office of the firm, but may not serve as a designated agent for multiple firms. The firm shall designate one (1) individual from the firm who shall be individually licensed as a designated agent through TREC. It is a requirement that the designated agent complete the required eight (8) hour introductory course, but no examination shall be required for the issuance or renewal of a firm license for a vacation lodging service. The designated agent shall provide accountability for the vacation lodging service firm.

An important component of the vacation

lodging service statute is that the firm license and the license for the designated agent expire at the same time. The designated agent will follow the date the firm license is issued or renewed and shall expire on the date the firm license will expire. § 62-13-104(b)(8)(A) has included new language stating, "if a designated agent, as designated by a vacation lodging service firm, leaves or moves from the vacation lodging service firm, the firm or designated agent for such firm must notify TREC within ten (10) days of such action. The vacation lodging service firm must replace the designated agent within sixty (60) days of such action and notify the commission of the name of the new designated agent. During such time period, all rules or regulation related to

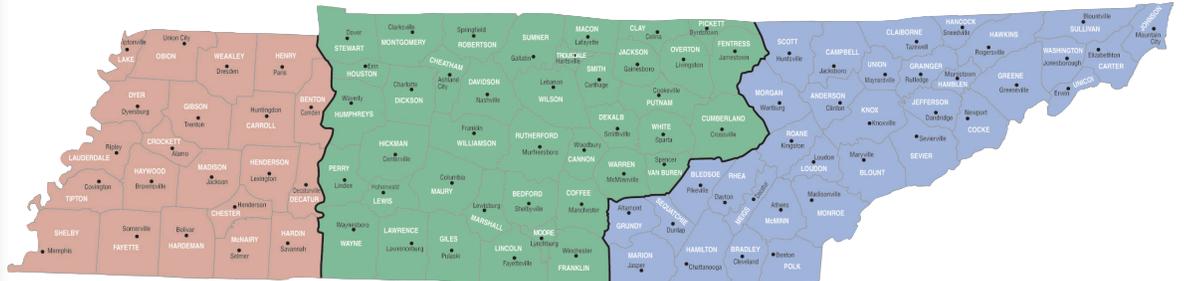
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Vacation Lodging Services...cont.

a vacation lodging service firm shall remain in full force and effect with respect to such a vacation lodging service firm until a designated agent is replaced.”

VLS Firms by County	
Blount	4
Campbell	4
Claiborne	2
Cocke	3
Fentress	2
Hamilton	1
Hardin	1
Knox	1
Macon	1
Marion	1
Meigs	1
Monroe	2
Pickett	3
Putnam	1
Sevier	97
VanBuren	2

Currently, Sevier County has over 9,000 owners which represent the largest population of this type. There are currently (126) vacation lodging service firms registered with TREC. Of those (126), listed at left is the break down by county:



According to Brad Ivens, Vice President of Eagle Property Management, Inc. in Pigeon Forge, the State of Tennessee collected over \$265,000,000 in revenue from the vacation lodging service industry. Currently, the Smoky Mountain Lodging Association manages 12,500 units in Sevier County alone and is the voice of the industry for the area. TREC commissioners are working with industry leaders to enhance consumer protection, an alignment of industry license and education standards, and escrow accountability. The Smoky Mountain Lodging Association is working on a CORE curriculum that would be specific to the vacation lodging service industry. The VLS CORE Course should be available for the commission to review in the next few months.

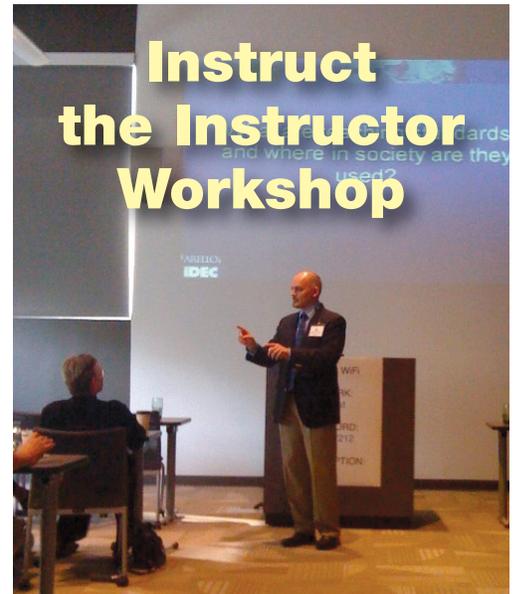
Policy Limits...cont.

limit policy did not apply to the claim because the group program provided insurance coverage for the claim. If the policy coverage does not apply when there is other insurance coverage for the claim, then it is not a true “excess” policy and it will not provide higher limits over the group policy limits. Our “excess” program provides that the excess policy limits will apply after all applicable limits of the individual Licensees’ underlying insurance have been exhausted. The excess limits are in addition to the individual licensee’s underlying limits. Therefore, if damages of \$1,200,000 are awarded against a real estate firm as a result of covered acts of two Licensees affiliated with the firm and the firm has a \$1,000,000 excess policy, the entire amount of the award would be covered. Each licensee’s individual limits of \$100,000 per licensee per claim would be available in addition to the \$1,000,000 firm excess policy limits. The legal expenses for defending the claim would also be

covered by the group policy (these costs are paid in addition to the policy limits and do not reduce the amount of insurance coverage available to pay the claim).

In summary, the basic limits offered by the Tennessee group policy provide coverage to satisfy most of the Tennessee licensee’s needs. For those Licensees who desire higher limits, both individual higher limits and firm excess limits are available for purchase. If you have any questions regarding the programs available, call RISC at (502) 897-1876 or toll-free for those not in the Louisville area (800) 637-7319. Please dial extension 1 for individual higher limits or extension 3 for excess limits.

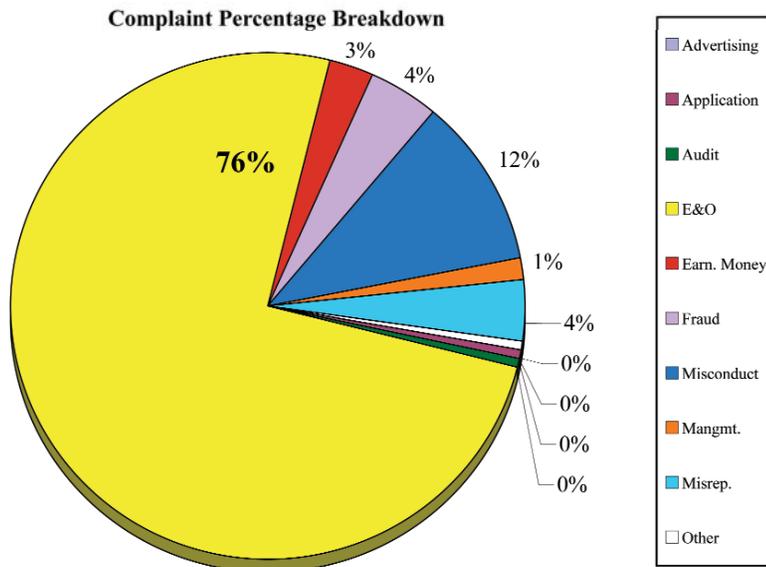
This information is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the products and services offered. Only the policy can provide the actual terms, coverage, amounts, conditions and exclusions. This program is only available in Tennessee.



On Friday September 24, 2010, acclaimed speaker and educator Joe McClary of ARELLO, The Association of Real Estate License Law Officials, presented a half-day training workshop to our approved continuing education instructors. With a focus on advanced learning concepts and delivery methods as the platform, forty-plus instructors from across the state of Tennessee were in attendance. The Tennessee Real Estate Commission thanks the Tennessee Association of REALTORS® for hosting this event.

COMPLAINTS AND THEIR FREQUENCY

Advertising	0	0%
Application	1	0%
Audit	1	0%
E&O	154	76%
Earn. Money	6	3%
Fraud	9	4%
Misconduct	22	12%
Mangmt.	3	1%
Misrep.	8	4%
Other	1	0%
TOTALS	205	100%



TREC Contact Information

(615) 741-2273 or (800) 342-4031

www.state.tn.us/commerce/boards/trec

PERSONNEL & AREAS OF RESPONSIBILITY

ADMINISTRATION

Executive Director:
Eve Maxwell

Education Director:
Stephen McDonald

Legal:
Robyn Ryan

Administrative Assistance:
Betsy Bowman
Kelly McDermott

Office Manager:
Dennis Hodges

Board Meetings:
Kelly McDermott

Complaints:
Conell House

Licensing:
Patricia Appleton

Hester Curtis
Kim Dorris
Gil Dyer
Rachel Fowler
Deborah Malugen
Karen Patton
Richard Thomas
Paula VanBuren

Reception & Records Management:
Ken Spurlock
Linda Wolfert
David Freyer

Errors & Omissions Insurance:
Contractor for
2009-2010

Rice Insurance Services Company, LLC
Phone: (888) 248-2444
Fax: (502) 897-7174
Web: www.risceo.com

Editor/Chief:
Stephen McDonald

Department of Commerce and Insurance

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Knoxville, TN

Number of Licensees

Number of Licensees as of 08/30/2010

(figures in parentheses are differences from numbers reported last month)

Type	Active	Inactive	Retired	Broker Release*	Grand Total
People	26,979 (-65)	1,402 (-28)	10,480 (-63)	674 (-43)	39,535 (-199)
Firms	4,389 (-19)		354 (-6)		4,743 (-25)
Totals	31,368 (-84)	1,402 (-28)	10,834 (-69)	674 (-43)	44,278 (-224)

*Broker Released licensees are those usually in the process of transferring or going inactive/retired.

Timeshare Registrations Active	190 (-1)
Vacation Lodging Services Active	128 (+6)
Licensed Acquisitions Agent Active	133 (-2)

E & O Penalty Monies Collected

1/1/09 - 8/27/10

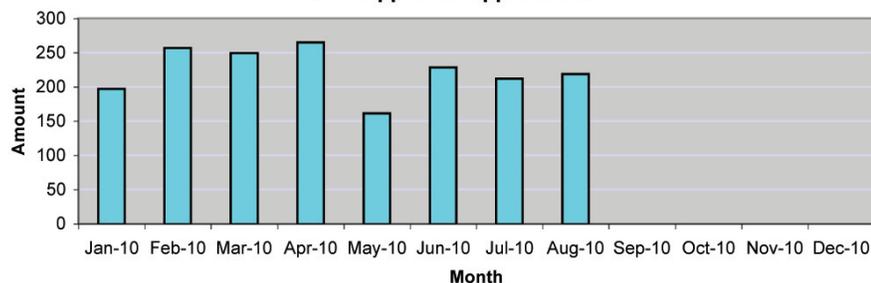
Total E & O Collected = \$247,850.00

Total All other Fines = \$479,513.00

Total Monies Collected
(minus) E & O = \$231,663.00

Real Estate Licenses by type

2010 Approved Applications



Type of License	Jan-10	Feb-10	Mar-10	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Yearly Total
Affiliate Broker	116	164	129	141	102	148	132	132					1064
Broker	27	23	34	27	10	25	25	19					190
Non-Resident	15	15	22	22	8	9	18	13					122
Firm	30	27	23	20	14	22	21	19					176
Non-Resident Firm	5	5	9	9	4	9	10	7					58
Timeshare	4	21	28	41	19	13	3	21					150
Vacation Lodging Services	0	2	1	1	1	2	0	5					12
Acquisition Agent	0	0	3	4	3	0	3	3					16
Totals	197	257	249	265	161	228	212	219	0	0	0	0	1788
Real Estate Firm Closures	27	19	19	7	11	20	8	10					121
Real Estate Firm Retired	8	10	7	5	0	26	6	16					78
Vacation Lodging Retired						1							1

NEW RULE AND LAW STATUS

There are changes made that will impact your business.

Please check out these changes online at

<http://www.tn.gov/commerce/boards/trec/documents/NewRulesasJune142010.pdf>

TREC POLICIES ON WEB-SITE

All current TREC policies are on the TREC web-site at:

<http://state.tn.us/commerce/boards/trec/policies.html>

Please review them frequently so that any changes concerning your license are noted. Policies can be added by the Commission or removed when they become obsolete or are replaced by rule or law.

2010-2011 COMMISSION MEETINGS

Oct 7/8	9:00am Sevier County Great Smoky Mountain Association of REALTORS® 1109 Glennhill Lane Sevierville, TN 37862
Nov 3/4	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Dec 1/2	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Jan 12 /13	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Feb 9/10	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Mar 21/22	Franklin/Cool Springs (In conjunction with the TAR Spring Conference)
Apr 13/14	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
May 12/13	Memphis TBD
Jun 8/9	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Jul 6/7	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Augt 10/11	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Sep 8/9	TBD
Oct 13/14	Kingsport TBD
Nov 9/10	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway
Dec 7/8	9:00am Nashville Davy Crockett Building, Room 160 500 James Robertson Parkway

NOTIFICATION OF ADDRESS CHANGE

Have you recently moved?? If yes, then TREC needs to know!! It is important to notify TREC of your change of address. We need this information because a growing number of licensees are not in constant contact with their firm. The process is fast and easy and of course NO CHARGE! Go online to www.tn.gov/commerce/boards/trec/forms and download the Transfer, Release and Change of Status Form (TREC Form 1) and submit to us. We will update your file. Make sure to provide all your information including your license number.

TREC TIPS

- Maintain your E&O!!! Have it in place BEFORE January 1, 2011
- TREC CORE 2011-2012 is now (6) Hours
- You will owe (16) hours of CE every licensing period
- TREC only recognizes an Active and a Retired status
- Office Broker Management course is a pre-license course only
- Know your personal expiry date
- Check the TREC website for a complete list of approved schools and courses
- Providers have 10 working days to submit education rosters
- The NAR® Code of Ethics is not a TREC mandatory course
- No course can be repeated within the same renewal period for CE credit

In an effort to provide outstanding service to individuals who call the TREC office, all staff members are required to introduce themselves by name. When calling, please note the name of the staff person with whom you spoke, in case you need to contact that person again.

Looking for the Disciplinary Action Page?

This page has also been placed online and will be updated monthly. Due to changes to reduce cost and the amount of actual disciplinary actions, the reports are now listed at:

[http://state.tn.us/commerce/boards/trec/documents/
DAR_Initial_012010.pdf](http://state.tn.us/commerce/boards/trec/documents/DAR_Initial_012010.pdf)



"The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 253-7685.



Tennessee Real Estate Commission
500 James Robertson Parkway, Suite 180
Nashville, Tennessee 37243-1151



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