

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Thursday, October 4, 2018 1:17:27 PM

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-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Thursday, October 4, 2018 12:07 PM  
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS REAL ESTATE COMMISSION

First Name: Michael

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Organization you are affiliated with: Veteran Home Inspections PLLC

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State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

Issue 1: TREC has clearly demonstrated, and the Sunset Commission has accurately determined, their inability to properly manage the responsibilities and funds entrusted to them. This has been an ongoing issue, and the road to recovery will likely be long. A 6-year timeframe for review will leave too much time for them to further damage their licensees.

TREC should not be allowed to continue operating, much less for 6 more years.

The Sunset Commission recommendation should be to eliminate the agency as a whole, or bring it back under normal state control with proper, independent, and continuous oversight.

Issue 2: The general theme with TREC is over regulation, so any recommendations for decreasing regulation of licensees is welcome. I can only speak to Home Inspector licensing, and the current licensing process is extremely burdensome and repetitive as noted. Considering the state with the next highest number of hours for certification only requiring less than half the number of hours, it's clear that TREC has simply raised the bar to an unreasonable level with diminishing returns. Even more telling is the decline in pass rates of licensing exams. It is interesting to note that no mention of the poor quality of education providers was noted in the report.

TREC rules state that for providers to be considered in good standing, they must maintain a first time pass rate of at least 80%, and that lower rates than that are subject to probation, disapproval, or revocation. However, looking at the pass rates provided by TREC, these rules are not being followed except in very few cases. TREC has also limited home inspector continuing education providers significantly, by creating an onerous approval process. There are numerous high-quality education providers, such as the International Code Council, the National Fire Protection Agency, and hundreds of others that are not recognized by TREC. By being forced to spend our time on the same few courses approved by TREC and offered by their crony providers, we are limited in time and money to seek out new and better education to provide better service to our clients.

Issue 3: The TREC complaint process as I have witnessed it seems to be arbitrary and capricious. While many

complaints resolved are clear and concise violations of rules or ethics, there are too many that are subjective. Too many times I have seen complaints against an inspector for “missing” something and the inspector is fined for this item, even though the Standards of Practice are completely silent on the issue. One example of this was the inspector that was fined for not reporting an AC that wasn’t cooling, which inspectors are supposed to report. However, there is not a written standard for what is acceptable. TREC decided that we must report if the temperature differential is not between 16-21F, but still doesn’t say how we are to measure it. This “standard” supposedly comes from a home inspection text book, but is in no way realistic to the majority of systems installed today. There are too many variables, but TREC had to find a way to discipline this inspector. Now all inspectors need to be worried that if a complaint is filed, TREC will find a way to fine us.

Issue 4: No comments on this issue.

Any Alternative or New Recommendations on This Agency:

New recommendations:

The absolute most important issue that the Sunset Commission should address is the blatant conflict of interest created by Real Estate Agents regulating Home Inspectors. Real Estate Agents have the sole purpose of facilitating a real estate transaction, while Home Inspectors are charged with finding deficiencies in those properties. Any deficiencies found will likely reduce the commission the agents receive. This conflict has been demonstrated repeatedly with the efforts of TREC to oppress home inspectors as much as possible. In reality, the board tasked with regulating a profession should also be doing everything in their power to support and advance the profession. Some examples:

- Home inspectors in all other states have the option of providing sewer camera scopes. The Texas Plumbers Board says that only a licensed plumber can do this, similar to the other trade boards saying that only a licensed tradesman can do work on a furnace, electrical panel, etc. Instead of backing up home inspectors and saying that home inspectors may inspect the plumbing lines, TREC’s immediate response was to publish an article telling inspectors we cannot inspect the sewer lines with a camera.
- A recent issue (still unresolved) came up about insurance policies and defense within/outside of limits. Even though TREC has yet to provide any proof of this being a problem, they want to force inspectors to buy an insurance policy that does not exist (defense outside of limits).
- Along with the liability issue, TREC also wants to dictate how we can limit our liability in our contracts. This would increase both the costs of insurance and the potential costs of liability.
- The use of a defined report format is overly restrictive on innovation.

The current report format is clearly designed for one purpose – to make it easy for the Real Estate Agent to read. Home inspectors across the country have developed, and continue to improve, multiple report formats that are not only easier to read, but also provide the client with more information. A one size fits all format is a real detriment to our profession. After all, how do you expect to present a comprehensive report of a 1920 home that has been modified multiple times and a new construction tract home on the same form? The TREC standard report form should be abolished and inspectors should be allowed to use any format they choose as long as it covers the Standards of Practice.

- TREC has also indicated they want to expand the definition of client to anyone that views our reports. This was in response to a resurgence in pre-listing inspections, where the inspection would be paid for, and performed for the seller of a property. The purpose of these inspections is to find any hidden issues, and to ensure full disclosure by the seller. TREC would have inspectors liability extend to anyone that may later view the report, even though months may have gone by, and the property condition may have changed. Should an inspector be responsible for something that breaks after the inspection but before the “client” sees the report? This would be similar to selling our client a comprehensive 4-year insurance policy for a one-time fee of the cost of a home inspection.

If TREC is truly in place to protect consumers, they should be doing everything in their power to ensure the best home inspection possible at a fair price. Instead it seems that they want to limit what we can inspect, and drive up costs of business.

Because of the inherent conflict of interest, Home Inspectors should be moved to another licensing division, such as the TDLR. If this is not an option, the only other options are to create an independent board similar to the Appraisal Board, or eliminate home inspector licensing as many other states have done.

My Comment Will Be Made Public: I agree