

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Wednesday, November 14, 2018 1:24:03 PM

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

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Wednesday, November 14, 2018 8:35 AM  
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

Last Name: Cothran

Title: Legislative Liaison

Organization you are affiliated with: Texas Professional Real Estate Inspectors Association

Email:

City: Humble, TX

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or  
Opposed: the report is not fully accurate about items needing correction at the reviewed commission

Any Alternative or New Recommendations on This Agency:  
Sunset Commissioners  
For the hearings on the Real Estate Commission  
11-13-18

Dear Commissioners

This is written on behalf of the Texas Professional Real Estate Inspectors Association and the affiliated InterNational Association of Certified Home Inspectors and their membership consisting of approximately 1700 of the 3400 actively licensed real estate inspector in the state of Texas.

Professional Real Estate Inspectors, while a small group of individuals, stand as the only safeguard that the Texas home buying consumer has to provide nonbiased condition of the property under consideration for purchase.

They are expected to be fully impartial and report only to the Texas consumer who has engaged them.

Since the mid 1990's there has been an ongoing rulemaking increase which affects not only the Inspection Profession but equally the Texas consumer, the majority of the time in a negative manner both restrictively and monetarily. This excessive rule making is addressed in the first version report from this Sunset Commission.

This small group of inspectors is licensed by the Real Estate Commission which is now under scrutiny by this Sunset Commission.

To that end both of the above Inspectors Associations met with the Sunset committee in charge of the review of the Real Estate Commission, in May of this year. We thank them for the courtesies. We left bound documents showing issues relating to Inspectors at the Real Estate Commission including a lack of voice or a seat in decision making and leadership.

When the first version of the report was made public it did not include references the issues the Associations had brought forward and so a focused response was submitted and according to the instructions, that communicate is in your hands.

This small group of Texas licensees is governed by the Real Estate Commission which on the surface sounds like exactly where they should be placed. But this small group of licensees has no voice in the governance of their licensing or rulemaking.

Texas Inspectors Real Estate Commission is governed by 6 real estate brokers and 3 public members. While Inspectors are expected to be impartial and neutral in the transaction, brokers and sales agents can only gain income if the transaction is completed. It would appear disingenuous and a conflict of interest for one to be rule making for the other but it is that way now.

This is why a previous Sunset Commission recommended that the Inspector licensing be moved from under the Real Estate Commission.

On the surface there is an Inspector Committee at the Real Estate Commission.

It is advisory only and serves as the pleasure of the Commission, its charter is set to expire next year and by attending a single meeting one can hear several times that this Committee does not speak for the Inspectors of Texas in any way.

The oversight extended over the Texas Inspectors would lead one to believe that they are a revolutionary band of renegades out to loot and pillage but the numbers from Texas Real Estate Center, regularly engaged by the Real Estate Commission to provide data, say otherwise. Once calculated, some of this data provides a ratio of approximately 19000 real estate closings to 1 inspector complaint.

There are states who do not license their inspectors at all but Texas leads the nation with requirements of approximately 330 hours of training for licensing while the next closest state required 180 hours. This is from the Sunset first version report. I wish I could report that these requirements are fruitful.

Also I ask you to consider that Inspectors are constituents, voters and citizens of the state of Texas. The likelihood is that each of you has some in your district.

Perhaps all this over reach, over sight and over rule making spawned Governor Abbott's new requirement that Texas agencies provide a cost-benefit analysis for all new rule making. We wish we could tell you that this will be fruitful...we hope so.

We ask that this Commission include the points brought forward by the Inspector Associations from the May input meeting with Sunset staff and from the Association letter responding to the first version report and amend the recommendations prior to approving the Sunset Commissions report.

Provide inspectors a voice in licensing thru the use on one of the following;

- move to agency such as Texas Department of Licensing and Regulation or
- create a commission as has been done for the appraiser, engineers, electrician, plumbers, insect control...nearly every other profession is expected to govern themselves.

Paul Roebuck Sr  
Founding President  
Texas Professional Real Estate Inspectors Association

My Comment Will Be Made Public: I agree



Friday, October 12, 2018

Jennifer Jones  
Acting Director  
Sunset Advisory Commission  
Kay Hricik  
Project Manager – Real Estate Commission  
Sunset Commission

Response to *First Version* of the Sunset Commission report on the Real Estate Commission (TREC) per your request.

Dear Ms. Jones and Ms. Hricik

TPREIA appreciates the notification of the accessibility to the *First Version*. At your request TPREIA/InterNACHI provides this response.

TPREIA/InterNACHI wishes to thank Ms. Hricik for the generous time and attention she and her staff allowed TPREIA to present our position and supporting materials.

The *First Version* report itself evidences that TREC has not been fully functional, for its budget, licensees or the consumer since around the time that it gained SDSI status. This, by itself, rates the ability of TREC to self manage.

TPREIA was surprised to learn that TREC has a reserve for building of \$12.5 million while the complex rule making continues. TPREIA has monitored most TREC meetings for many years and is not aware of any such fund reporting made at public meetings where all functions of TREC provide reporting.

It is difficult to hide our disappointment with the seeming absence of recommendations for the inspector licensing function at TREC as we felt we had advanced and supported them in the materials we left for the Sunset Commission's consideration.

To be brief and concise I will divide this communicate into the following segments following your instruction in the email;

1. Items upon which we agree from the *First Version*
2. Items absent from *First Version*
3. Deficiencies in *First Version*
4. Potential corrections to *First Version*

**Items upon which we agree from the *First Version*;**

1. Overreach and regulation of pre-licensure education and instructors.

2. Agree with oversight of TREC and would ask for even more than the recommendations.
3. Agree with the lack of public disclosure on the education funds spent on the 'national regulatory association' that TPRESIA brought to the attention of the Sunset Commission during out visit in May of this year. ARELLO. However, it did not go far enough in questioning the overall intent of that 'private' organization to control the real estate in the various states. First Version page 19. This needs to be a recommendation to the legislature.
4. Agree with additional oversight requirements on page 19. This needs to be a recommendation to the legislature.

**Items absent from *First Version*;**

1. In a *First Version* which reinforces that TREC is over burdening licenses with rules there is no mention made of the ever-increasing inspector licensing rules from TREC.
2. The education area of the *First Version* speaks only to CORE (pre-licensure) education with no mention of continuing education and the multitude of rules again for control of private education institutions and professional trade associations.
3. There is no mention of small group of licensees (inspectors) whose role in the real estate transaction is, by definition, unbiased base being led by another licensee group whose income is based on the culmination of the same transaction.
4. There is no recommendation for Commissioner representation by all licensee types of TREC.
5. The needless heavy dependence on TREC internal enforcement rather than reliance on Civil Courts to determine consumer protection.

**Deficiencies in *First Version*;**

1. Page 36 (3.2) recommends that low level complaints be delegated to staff and away from enforcement. Page 22 (fiscal implications) recommends that administration penalties be sent to the general fund lowering the TREC annual payment. This means that TREC can control the amount of annual debt to the state by being heavy handed on penalties.

**Potential corrections to the *First Version*;**

1. Page 42, TREC has recently removed any inspector professional association definitions from its rules.
2. Page 7 – The Inspector Committee is technically and by statute an advisory committee. It will be dissolved with no TREC action in 2019. The *First Version* statement appears that the inspector licensee has representation at TREC. It does not, the Inspector Commission is Advisory only and serves only at the will of the TREC Commissioners.

OCCUPATIONS CODE  
 TITLE 7. PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING  
 SUBTITLE A. PROFESSIONS RELATED TO REAL ESTATE  
 CHAPTER 1102. REAL ESTATE INSPECTORS  
 SUBCHAPTER A. GENERAL PROVISIONS  
 SUBCHAPTER B. TEXAS REAL ESTATE INSPECTOR COMMITTEE  
 Sec. 1102.051. COMMITTEE MEMBERSHIP. (a) The Texas Real Estate Inspector Committee is an advisory committee appointed by the commission.

30+ years ago the licensing of inspectors began so that the Texas home buying consumer had a place to go to secure an unbiased opinion on the condition of the largest purchase that most of them would make.



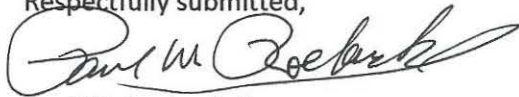
The great disappointment is that the licensing has bureaucratically morphed from a property condition inspection to a warranty where a consumer gets a state mandated \$100,000 warranty for a \$400 inspection that has no expiration date. Recent efforts by TREC wish to increase these liabilities. It is doubtful that the consumer will have the licensed inspector benefit because inspection market pricing is not commensurate with cost and liability.

I also would call attention to a previous recommendation by a Sunset Commission review, to have inspector licensing removed from TREC and placed with another agency, due to conflict of interest. This is absent in the *First Version*.

Finally, it is our position that, as evidenced by an extreme lack of complaints against inspectors in the *First Version* on page 10, it is not even warranted that the inspection industry be licensed and have oversight. Kansas agreed two years ago by repealing its inspector licensing law. The cost/benefit called for by the Governor reaffirms that inspector licensing (oversight and overreach) is not necessary. TPREIA agrees.

<http://www.gregabbott.com/wp-content/uploads/2014/08/Occupational-Licensing.pdf>

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul W. Roebuck, Sr.", written in a cursive style.

Paul W. Roebuck, Sr.  
Founding President  
TPREIA