

RAMSEY FARRAR & BATES

TREC RULEMAKING HEARING NOVEMBER 12, 2020

TREC will hold a rulemaking hearing concerning the 2 rules below. Included in this document is a brief overview of both of those:

1) Advertising listings of another licensee; required permission

- Currently, TREC rules require written authorization from the property owner be required when a licensee is wishing to advertise property listed by another licensee.
- The proposed rule change would change permission from property owner to permission from the listing agent or listing broker.
- This would mean if a licensee wanted to share the listing of another licensee on their facebook page, for instance, they would need to contact the listing agent and obtain written permission from the agent.
- This rule seems to be more aligned with the practicality of today's real estate practice.

Here is a redline version of the rule. Blue language denotes new language. The language which is in red and stricken is the language being replaced.

Rule 1260-02-.12(3)(e) shall read:

(3)(e) No licensee shall advertise property listed by another licensee without written authorization from the listing agent or listing broker ~~property owner. Written authorization must be evidenced by a statement on the listing agreement or any other written statement signed by the owner.~~

To view the complete rule filing, visit below:

https://publications.tnsosfiles.com/rules_filings/09-08-20.pdf

2) Changes in response to the Fresh Start Act

- In 2018, the Tennessee General Assembly passed the Fresh Start Act which was designed to further reduce Tennessee's recidivism rates by providing a pathway to employment for citizens who are returning to their communities following incarceration and who desire a fresh start in life. The bill stated denials and refusals for professional license renewals based on a prior criminal conviction are only allowable when the criminal offense directly relates to an individual's ability to perform duties associated with the occupation or profession they are seeking a licensure for, excluding violent felonies.
- Currently, TREC has a rule which contains a "blanket ban" for any applicant for a real estate license who has been convicted of felonies and misdemeanors which involve theft within the past 2 years.
 - This rule will be stricken and those people will be eligible to apply for a real estate license.
 - However, the real estate commission will retain the ability to interview those applicants and the real estate commission will also retain the ability to deny any applicant convicted of such felony or misdemeanor if the commissioners feel the crime was so egregious and the applicant has not changed their life in a manner that would not put consumers at risk of harm.
- Currently, TREC requires any applicant who has been convicted of a felony or misdemeanor within the past ten years related to theft, the applicant shall provide certain documentation regarding the conviction with their application.
 - This rule change would make it so this requirement only applied to Class A, B, or C felonies and not Class D or E felonies, which are much smaller in nature.

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TREC Rule 1260-01.01

~~(4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.~~

~~(5)~~⁽⁶⁾ If within the past ten (10) years, an applicant has been convicted of or pled nolo contendere or guilty to any **Class A, B, or C** felony or a misdemeanor involving the theft of services, money or property, or had disciplinary sanctions imposed on them by any local, state or federal occupational licensing body, the applicant shall:

(a) Complete and submit a form prescribed by the Commission containing information relevant to the conviction, plea or disciplinary sanction.

(b) Submit certified copies of the court disposition or other document acceptable to the Commission for each conviction, plea of guilty or nolo contendere or a copy of the order or other document which shows the disciplinary action taken by the local, state or federal agency and the factual and legal basis for the action, whichever is applicable.

1. If the background check produced pursuant to T.C.A. § 62-13-303(1) does not reveal the disposition of any arrest or charge related to a **Class A, B, or C** felony or a misdemeanor involving theft of services, money or property and the charge has been dismissed, nolle prosequi or otherwise disposed of without conviction or a plea of guilty or nolo contendere, the applicant shall submit certified copies of the court disposition or other document acceptable to the Commission for each such arrest or charge.

2. If the court has no record of the arrest, charge, or conviction due to age of the record or any other reason, the applicant shall submit a letter from the court clerk stating the absence of the record(s).

To view the complete rule filing, visit below:

https://publications.tnsosfiles.com/rules_filings/09-07-20.pdf