

***Texas Real Estate Commission
Chapter 535, General Provisions
Rules Adopted at the October 27, 2008 Meeting***

**Subchapter R. Real Estate
Inspectors
22 TAC §535.223**

The Texas Real Estate Commission (TREC) adopts new §535.223 concerning standard inspection report forms without changes to the proposed text as published in the September 5, 2008, issue of the *Texas Register* (33 TexReg 7403), which will not be republished. The new rule, effective February 1, 2009, adopts by reference a revised standard inspection report form and clarifies when the form is required and how it may be modified by licensees. TREC has a statutory duty to adopt standard inspection report forms and to adopt rules requiring licensed inspectors to use the report forms under Senate Bill Number 1100, 75th Legislature (1997).

The new §535.223 has been recommended by the Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC, to correspond to proposed revisions to the inspector standards of practice that are otherwise explained in this issue of the *Texas Register*.

The reasoned justification for the new §535.223 is increased clarity for inspectors and consumers alike regarding the use of the standard inspection report form and an improved form that corresponds with improvements to the standards of practice (22 TAC §§ 535.227 - 535.233).

The TREC received ten comments during the notice and comment period regarding adoption of the new rule.

Comment: Six commenters suggested adding an exception to the standard form requirement for relocation inspections so that inspections performed for relocation companies could be reported on a different form, such as an industry form, with appropriate language notifying the public that the inspection was not performed in accordance with the TREC standards of practice.

Response: The Commission respectfully disagrees with the comment because such an exception existed in §535.223 until August 2006 and was repealed because the required notice was rarely, if ever, used. While the matter may be discussed further in the future, the Commission does not deem it appropriate to allow the exception at this time.

Comment: One commenter suggested adding a separate category to the standard form for driveways and sidewalks.

Response: The Commission respectfully disagrees with the comment because deficiencies in these components are generally either related to structural performance/water retention and should be reported in the appropriate structural section, or cosmetic. Cosmetic defects are not required to be reported but may be reported in the optional section of the form.

Comment: One commenter expressed general dissatisfaction with the proposed inspection report form but did not indicate any specific issues other than implying a preference for the current form (REI 7A-0) because he purchased reporting software for that form.

Response: The Commission respectfully disagrees with the comment because the new form incorporates substantial improvements over the old form, and the cost of new reporting software is minimal.

Comment: One commenter raised a number of questions about use of the report form and made several stylistic suggestions, including moving the “Comments” heading below the section headings for consistency throughout the report; removing the coliform notice from the water well section due to concerns that it is confusing; and deleting the serial of “Oxford” comma from lists of three or more items on the report.

Response: The Commission respectfully disagrees with the comments, as the “Comments” heading is consistently below the section heading when there

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are other subheadings and to the right of the heading (to save space on the form) when there are not; the Commission is unaware of the same coliform notice leading to confusion in the past; and while it is acceptable to use or omit the serial comma, most authorities on American English recommend its use.

Comment: One commenter suggested adding the following notice to the informational text on the front of the standard report form: "At virtually every inspection, there are items that are not able to be inspected or operated due to accessibility, inspector safety occupant needs or health, temperatures, and other weather conditions. The inspector is not required to re-visit the property to inspect the item or items."

Response: The Commission respectfully disagrees because the informational text on the standard report form already addresses the limitations of the inspection.

The new section is adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

§535.223 Standard Inspection Report Form. The Texas Real Estate Commission adopts by reference Property Inspection Report Form REI 7A-1, approved by the Commission in 2008 for use in reporting inspection results. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

(1) Except as provided by this section, inspections performed for a prospective buyer or prospective seller of one-to-four family residential property shall be reported on Form REI 7A-1 adopted by the Commission ("the standard form").

(2) Inspectors may reproduce the standard form by computer or from printed copies

obtained from the Commission. Except as specifically permitted by this section, the inspector shall reproduce the text of the standard form verbatim and the spacing, length of blanks, borders, and placement of text on the page must appear to be identical to that in the printed version of the standard form.

(3) An inspector may make the following changes to the standard form:

(A) the inspector may delete the line for name, license number, and signature of the sponsoring inspector if the inspection was performed solely by a professional inspector;

(B) the inspector may change the typeface, provided that fonts are no smaller than those used in the printed version of the standard form;

(C) the inspector may use legal sized (8-1/2" by 14") paper;

(D) the inspector may add a cover page to the report form;

(E) the inspector may add footers to each page of the report except the first page and may add headers to each page of the report;

(F) the inspector may place the property identification and page number at either the top or bottom of the page;

(G) the inspector may add subheadings under items, provided that the numbering of the standard items remains consistent with the standard form;

(H) the inspector may list other items in the appropriate section of the form and additional captions, letters, and check boxes for those items;

(I) the inspector may delete inapplicable subsections of Section VI., Optional Systems, and re-letter any remaining subsections;

(J) the inspector may delete Subsection L., Other, of Section I., Structural Systems;

(K) the inspector may allocate such space in the "Additional Information Provided by the Inspector" section and in each of the spaces provided for comments for each

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inspected item as the inspector deems necessary or may attach additional pages of comments to the report; and

(L) if necessary to report the inspection of a part, component, or system not contained in the standard form, or space provided on the form is inadequate for a complete reporting of the inspection, the inspector may attach additional pages to the form. When providing comments or additional pages to report on items listed on a form, the inspector shall arrange the comments or additional pages to follow the sequence of the items listed in the form adopted by the commission.

(4) The inspector shall renumber the pages of the form to correspond with any changes made necessary due to adjusting the space for comments or adding additional items and shall number all pages of the report, including any addenda.

(5) The inspector shall indicate, by checking the appropriate boxes on the form, whether each item was inspected, not inspected, not present, and/or deficient and shall explain the findings in the appropriate space on the form.

(6) This section does not apply to the following:

(A) re-inspections of a property performed for the same client; or

(B) inspections performed for or required by a lender or governmental agency;

(C) inspections for which federal or state law requires use of a different report; or

(D) quality control construction inspections of new homes performed for builders, including phased construction inspections, inspections performed solely to determine compliance with building codes, warranty or underwriting requirements, or inspections required by a municipality and the builder or other entity requires use of a different report, and the first page of the report contains a notice either in bold or underlined reading substantially similar to the following: "This report was prepared for a builder or other entity in accordance with the builder's requirements. The report is not intended as a substitute for an

inspection of the property by an inspector of the buyer's choice. Standard inspections performed by a Texas Real Estate Commission licensee and reported on Texas Real Estate Commission promulgated report forms may contain additional information a buyer should consider in making a decision to purchase." If a report form required for use by the builder or builder's employee does not contain the notice, the inspector may attach the notice to the first page of the report at the time the report is prepared by the inspector.

This agency hereby certifies that the repeal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on November 3, 2008.

TRD #: 200805775

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Effective Date: February 1, 2009