

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 22. EXAMINING BOARDS

PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 531. CANONS OF PROFESSIONAL ETHICS AND CONDUCT

22 TAC §531.18

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to 22 TAC §531.18, Consumer Information, in Chapter 531, Canons of Professional Ethics and Conduct.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 88th Legislature in HB 1363, which becomes effective September 1, 2023, and which eliminates the real estate inspection recovery fund. As a result, references to that fund are removed from the Consumer Protection Notice form adopted by reference and the version number in the rule is updated.

The identical rule is also being proposed under §2001.023 and §2001.029, Texas Government Code.

The amendments are adopted on an emergency basis under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted on an emergency basis under §1101.202, which requires the Commission to prescribe a notice containing the name, mailing address, and telephone number of the Commission for the purpose of directing a complaint to the commission; and establish methods by which consumers and service recipients are provided the notice by a person regulated under Chapter 1101 or 1102.

The statutes affected by these amendments adopted on an emergency basis are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the emergency amendments.

§531.18. Consumer Information.

(a) The Commission adopts by reference the Consumer Protection Notice, TREC No. CN 1-5 [~~CN 1-4~~]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.texas.gov.

(b) Each license holder shall provide the notice adopted under subsection (a) by:

(1) displaying it in a readily noticeable location in each place of business the broker maintains; and

(2) providing a link to it in a readily noticeable place on the homepage of each business website, labeled:

(A) "Texas Real Estate Commission Consumer Protection Notice", in at least 10 point font; or

(B) "TREC Consumer Protection Notice", in at least 12 point font.

(c) For purposes of this section, business website means a website on the internet that:

(1) is accessible to the public;

(2) contains information about a license holder's real estate brokerage services; and

(3) the content of the website is controlled by the license holder.

(d) For purposes of providing the link required under subsection (b)(2) on a social media platform, the link may be located on:

(1) the account holder profile; or

(2) a separate page or website through a direct link from the social media platform or account holder profile.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

22 TAC §535.58

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to 22 TAC §535.58, License for Military Service Members, Veterans, or Military Spouses, in Chapter 535, General Provisions.

The amendments are adopted on an emergency basis, in part, to implement statutory changes enacted by the 88th Legislature in SB 422, becomes effective September 1, 2023, and which modifies the time period within which issuance of a license after

certain conditions are satisfied, from "as soon as practicable" to no later than 30 days. The amendments reflect this statutory change.

Section 535.58 is also being proposed under §2001.023 and §2001.029, Texas Government Code, with some additional changes.

The amendments are adopted on an emergency basis under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted on an emergency basis under §55.005, which requires expedited licenses for military service members, military veterans, and military spouse.

The statutes affected by this proposal are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the proposed amendments.

§535.58. *License for Military Service Members, Veterans, or Military Spouses.*

(a) Definitions.

(1) "Military service member" means a person who is on current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001, Government Code, or similar military service of another state.

(2) "Military spouse" means a person who is married to a military service member.

(3) "Veteran" means a person who has served as a military service member and who was discharged or released from active duty.

(b) Except as otherwise provide by this section:

(1) a person applying for a sales agent or broker license under this chapter must comply with all requirements of §535.51 of this chapter (relating to General Requirements for a Real Estate License); and

(2) a person applying for an inspector license under this chapter must comply with all requirements of §535.208 of this chapter (relating to Application for a License).

(c) Expedited application.

(1) The Commission shall process a license for an applicant who is a military service member, military veteran, or military spouse on an expedited basis.

(2) If the applicant holds a current certificate or license issued by a country, territory, or state other than Texas that has licensing requirements that are substantially equivalent to the requirements for the certificate or license issued in Texas, the Commission shall issue the license not later than the 30th day [as soon as practicable] after receipt of the application.

(d) Waiver of fees and requirements.

(1) The Commission shall waive application and examination fees for an applicant who is a:

(A) military service member or veteran whose military service, training, or education substantially meets all of the requirements for a license; or

(B) military service member, veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the same license in this state.

(2) The Executive Director may waive any other requirements for obtaining a license for an applicant who:

(A) meets the requirements of subsection (c)(2) of this section; or

(B) held a license in Texas within the five years preceding the date the application is filed with the Commission.

(e) Credit for military service.

(1) For an applicant who is a military service member or veteran, the Commission shall credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(f) Alternate methods of competency. The Commission may accept alternative methods for demonstrating an applicant's competency in the place of passing the specific licensing examination, or completing education and/or experience required to obtain a particular license. Based on the applicant's circumstances and the requirements of a particular license, the Commission may consider any combination of the following as alternative methods of demonstrating competency:

- (1) education;
- (2) continuing education;
- (3) examinations (written and/or practical);
- (4) letters of good standing;
- (5) letters of recommendation;
- (6) work experience; or
- (7) other methods required by the Executive Director.

(g) Limited reciprocity for military spouses.

(1) A person who is a military spouse who holds a current certificate or license issued by a country, territory, or state other than Texas that has licensing requirements that are substantially equivalent to the requirements for the certificate or license issued in Texas who wants to practice in Texas in accordance with §55.0041, Occupations Code, must:

(A) notify the Commission of the person's intent to practice in Texas on a form approved by the Commission; and

(B) submit a copy of the military identification card issued to the person; and

(2) Upon receipt of the documents required under paragraph (1) of this subsection, the Commission will:

(A) verify that the person is currently licensed and in good standing by another jurisdiction with substantially equivalent licensing requirements to Texas; and

(B) upon confirmation from the other jurisdiction that the person is currently licensed and in good standing with that jurisdiction, issue a license to the person for the same period in which the person is licensed or certified by the other jurisdiction.

(3) A person may not practice in Texas in accordance with this subsection without receiving confirmation from the Commission

that the Commission has verified that the person is currently licensed and in good standing with another jurisdiction. Confirmation is provided by the Commission when the person is issued a license as provided for in paragraph (2) of this subsection.

(4) A license issued under this subsection may not be renewed.

(5) After expiration of the initial license, if a person wants to continue to practice in accordance with this subsection, it is the responsibility of the person to seek confirmation from Commission that the person continues to meet the requirements to practice under this subsection by submitting a form approved by the Commission certifying that:

(A) the person is still currently licensed and in good standing with another jurisdiction with substantially equivalent licensure requirements to Texas; and

(B) the person's spouse is still stationed at a military installation in this state.

(6) Upon verification by Commission that the person still meets the requirements under this subsection, the Commission will issue another license for the same period in which the person is currently licensed or certified by the other jurisdiction.

(7) The time period for which a person may practice under this subsection without meeting the requirements for licensure in Texas is limited to the lesser of:

(A) the period during which the person's spouse is stationed at a military installation in this state; or

(B) three years.

(8) A person authorized to practice in this state under this subsection must comply will all other laws and regulations applicable to the license, including any sponsorship requirements.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER R. REAL ESTATE INSPECTORS

22 TAC §535.210, §535.219

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to 22 TAC §535.210, Fees, and §535.219, Schedule of Administrative Penalties, in Chapter 535, General Provisions.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 88th Legislature in HB 1363, which becomes effective September 1, 2023, and which eliminates the real estate inspection recovery fund. The changes

to 535.210 reflect the fact that for applications submitted as of September 1, 2023, the \$10 fee will no longer be required. The changes to §535.219 replace a repealed statutory section with a related rule 22 TAC §535.220(g) (although related, this rule is authorized by another statutory provision).

The identical rules are also being proposed under §2001.023 and §2001.029, Texas Government Code.

The amendments are adopted on an emergency basis under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted on an emergency basis under Texas Occupations Code, §1102.403, which allows the Commission to impose an administrative penalty as provided by Subchapter O, Chapter 1101 pursuant to that section.

The statute affected by these amendments adopted on an emergency basis is Texas Occupations Code, Chapter 1102. No other statute, code or article is affected by the emergency amendments.

§535.210. Fees.

(a) The Commission shall charge and collect the following fees:

(1) a fee of \$60 for filing an original or reinstatement application for a license as an apprentice inspector;

(2) a fee of \$100 for filing an original or reinstatement application for a license as a real estate inspector, which includes a fee for transcript evaluation;

(3) a fee of \$120 for filing an original or reinstatement application for a license as a professional inspector, which includes a fee for transcript evaluation;

(4) a fee of \$30 for the timely renewal of the license of an apprentice inspector;

(5) a fee of \$50 for the timely renewal of the license of a real estate inspector;

(6) a fee of \$60 for the timely renewal of the license of a professional inspector;

(7) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;

(8) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;

(9) a fee for taking a license examination consisting of a national portion and a state portion or retaking the national part of the license examination;

(10) a fee for taking a license examination without a national portion or retaking the state part of the license examination;

(11) a fee of \$50 to request an inactive professional inspector license be returned to active status;

(12) a fee of \$50 for the filing of a fitness determination;

(13) the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system;

(14) a fee of \$400 for filing an application for accreditation of a qualifying inspector education program for a period of four years;

(15) after initial approval of accreditation, a fee of \$200 a year for operation of a qualifying inspector education program;

(16) a fee of \$50 plus the following fees per classroom hour approved by the Commission for each qualifying inspector education course for a period of four years:

(A) \$5 for content and examination review;

(B) \$5 for classroom delivery design and presentation review; and

(C) \$10 for distance education delivery design and presentation review.

(17) a fee of \$400 for filing an application for accreditation as a continuing inspector education provider for a period of two years;

(18) a fee of \$50 plus the following fees per classroom hour approved by the Commission for each continuing inspector education course for a period of two years:

(A) \$2.50 for content and examination review;

(B) \$2.50 for classroom delivery design and presentation review; and

(C) \$5 for distance education delivery design and presentation review.

(19) the fee required under paragraphs (16)(C) and (18)(C) of this subsection will be waived if the course has already been certified by a distance learning certification center acceptable to the Commission;[-]

(20) for an applicant who submits an application prior to September 1, 2023, a fee of \$10 for deposit in the Real Estate Inspection Recovery Fund upon an applicant's successful completion of an examination; and

(21) the fee charged by the Federal Bureau of Investigation and Texas Department of Public Safety for fingerprinting or other service for a national or state criminal history check in connection with a license application.

(b) Fees established by this section must be paid when an application is filed and are not refundable once an application has been accepted for filing.

(c) If the Commission receives an application that requires payment of a fee, and a sufficient fee was not submitted with the application, the Commission will return the application and notify the person filing the application that the person must pay the fee before the application will be processed.

(d) If a payment to the Commission by or on behalf of a license holder or applicant is dishonored or reversed by a bank or other financial institution, the Commission shall send a request for payment of the dishonored or reversed payment by certified mail to the last known mailing address of the license holder or applicant as shown in the records of the Commission. If the Commission has sent a request for payment in accordance with the provisions of this section, and the license holder or applicant fails to make good on the payment in the form of a cashier's check, money order, or credit card payment within 30 days after the Commission has mailed the request, the license will be placed on inactive status.

(e) Placing a license on inactive status under this section does not preclude the Commission from proceeding under §1101.652(a)(3), Texas Occupations Code, against a license holder who has failed to

make good a payment issued to the Commission within a reasonable time.

§535.219. *Schedule of Administrative Penalties.*

(a) The Commission may suspend or revoke a license or take other disciplinary action authorized by Chapter 1102 in addition to or instead of assessing the administrative penalties set forth in this section.

(b) The administrative penalties set forth in this section consider the criteria listed in §1101.702(b) of the Act.

(c) An administrative penalty range of \$100 - \$1,500 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:

(1) §1101.652(a)(8);

(2) §1102.118;

(3) §1102.305;

~~(4) §1102.364;~~ }

~~(4) [(5)] 22 TAC §535.216(c);~~

~~(5) [(6)] 22 TAC §535.217;~~

~~(6) [(7)] 22 TAC §535.220(a) - (d) and (g);~~

~~(7) [(8)] 22 TAC §535.221; and~~

~~(8) [(9)] 22 TAC §535.223.~~

(d) An administrative penalty range of \$500 - \$3,000 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:

(1) §§1101.652(a)(3) - (4);

(2) §1102.301;

(3) 22 TAC §535.222;

(4) 22 TAC §535.226(d) - (e); and

(5) 22 TAC §§535.227 - 535.233.

(e) An administrative penalty of \$1,000 - \$5,000 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:

(1) §§1101.652(a)(2), (5) - (6);

(2) §1102.101;

(3) §1102.102;

(4) §1102.103;

(5) §1102.302;

(6) §1102.303;

(7) §1102.304;

(8) 22 TAC §535.208(e)(2);

(9) 22 TAC §535.211;

(10) 22 TAC §535.215;

(11) 22 TAC §535.220(e)(1), (3) - (7); and

(12) 22 TAC §535.224(b)(1) - (2).

(f) The Commission may assess an administrative penalty of up to two times that outlined under subsections (c), (d), and (e) of this section, subject to the maximum penalties authorized under §1101.702(a) of the Act, if a person has a history of previous violations.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

22 TAC §537.62

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to 22 TAC §537.62, Standard Contract Form TREC No. OP-H, Seller's Disclosure Notice; in Chapter 537, Professional Agreements and Standard Contracts. Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contacts for the sale of real property, although some forms--like the Seller's Disclosure Notice--are adopted by the Commission for voluntary use by license holders. Contract forms are drafted and recommended for proposal by the Texas Real Estate Broker-Lawyer Committee, an advisory body consisting of six attorneys appointed by the President of the State Bar of Texas, six brokers appointed by TREC, and one public member appointed by the governor. The Texas Real Estate Broker-Lawyer Committee recommended revisions to the contract forms adopted by reference under the amendments adopted on an emergency basis to Chapter 537 to comply with statutory changes enacted by the 88th Legislature in HB 697.

The Seller's Disclosure Notice is updated to comply with the requirements of HB 697, which becomes effective September 1, 2023, and which add a disclosure related to fuel gas piping to the statutorily-required notice.

The identical rule is also being proposed under §2001.023 and §2001.029, Texas Government Code.

The amendments are adopted on an emergency basis under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted on an emergency basis under Texas Occupations Code §1101.155, which allows the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Broker-Lawyer Committee and adopted by the Commission.

The statute affected by these amendments adopted on an emergency basis is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the emergency amendments.

§537.62. Standard Contract Form TREC No. 55-0 [OP-H], Seller's Disclosure Notice.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 55-0 [OP-H] approved by the Commission in 2023 [2019] for voluntary use to fulfill the disclosure requirements of Texas Property Code § 5.008.

The agency certifies that legal counsel has reviewed the emergency adoption and found it to be within the state agency's legal authority to adopt.

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