Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 7. BANKING AND SECURITIES

PART 1. FINANCE COMMISSION OF TEXAS

CHAPTER 2. RESIDENTIAL MORTGAGE LOAN ORIGINATORS REGULATED BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

SUBCHAPTER A. APPLICATION PROCEDURES

7 TAC §2.108

The Finance Commission of Texas (commission) proposes amendments to §2.108 (relating to Military Licensing) in 7 TAC Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The rules in 7 TAC Chapter 2 govern residential mortgage loan originators (RMLOs) licensed by the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapter 180. In general, the purpose of the proposed rule changes is to specify RMLO licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by HB 5629 and SB 1818 (2025).

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review. The OCCC did not receive any precomments from stakeholders on the draft of the proposed changes.

Chapter 55 of the Texas Occupations Code describes licensing requirements for military service members, military veterans, and military spouses. Chapter 55 applies to licenses that "must be obtained by an individual to engage in a particular business." Tex. Occ. Code §55.001(3). Chapter 55 includes an expedited license application procedure for certain previously licensed individuals and authorizes certain individuals licensed in other states to engage in licensed occupations in Texas.

HB 5629, which the Texas Legislature passed in 2025, amends various provisions in Chapter 55. Specifically, HB 5629 revises language in Texas Occupations Code, §55.004, on issuing a license to a service member, veteran, or spouse holding a license issued by another state. HB 5629 also amends Texas Occupations Code, §55.0041, to specify documentation required for a service member or spouse to obtain an authorization to practice in Texas based on holding a license in another state. In addition, HB 5629 adds new Texas Occupations Code, §55.0042, describing how a state agency determines whether a person is "in good standing" with another state's licensing authority. Finally, HB 5629 amends Texas Occupations Code, §55.005, to specify a 10-business-day period for issuing a license to an applicant who qualifies under Texas Occupations Code, §55.004. HB 5629 has been approved by the governor and will be effective September 1, 2025.

SB 1818, which the Texas Legislature passed in 2025, also amends Chapter 55. Specifically, SB 1818 amends Texas Occupations Code, §55.004 and §55.0041, to describe circumstances where an agency issues a provisional license and the duration of a provisional license. SB 1818 has been approved by the governor and will be effective September 1, 2025.

Proposed amendments to §2.108 would implement the statutory amendments from HB 5629 and SB 1818 for RMLOs licensed by the OCCC. Proposed amendments to §2.108(b) clarify that the term "in good standing" has the meaning provided by Texas Occupations Code, §55.0042 (a new statutory section added by HB 5629). Proposed amendments to §2.108(d) specify the expedited licensing procedure under Texas Occupations Code, §55.004 and §55.005 (as amended by HB 5629 and SB 1818). Finally, proposed amendments to §2.108(e) specify the recognition of out-of-state under Texas Occupations Code, §55.0041 (as amended by HB 5629 and SB 1818). This includes HB 5629's technical changes and SB 1818's changes related to provisional licenses. Other clarifying amendments are proposed throughout §2.108 to improve the section's structure and readability.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of the changes will be that the commission's rules will ensure that the OCCC can effectively administer military licensing requirements under Texas Occupations Code, Chapter 55.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §2.108 in accordance with HB 5629 and SB 1818. The proposal would not limit or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Occupations Code, §55.004 and §55.0041 (as amended by HB 5629 and SB 1818), which authorize a state agency to adopt rules implementing requirements of Texas Occupations Code, Chapter 55. The rule amendments are also proposed under Section 7 of HB 5629, which authorizes a state agency to adopt or modify rules to implement HB 5629's changes, and Section 3 of SB 1818, which authorizes a state agency to adopt rules to implement SB 1818's changes. In addition, Texas Finance Code, §180.004 authorizes the commission to implement rules to comply with Texas Finance Code, Chapter 180.

The statutory provisions affected by the proposal are contained in Texas Occupations Code, Chapter 55 and Texas Finance Code, Chapter 180.

§2.108. Military Licensing.

(a) Purpose. The purpose of this section is to specify residential mortgage loan originator licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55.

(b) Definitions. In this section: [~~, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.~~]

(1) The terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.

(2) The term "in good standing" has the meaning provided by Texas Occupations Code, §55.0042.

(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a residential mortgage loan originator license in a timely manner, if the individual establishes to the satisfaction of the OCCC that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited license procedure under [~~. As provided by~~] Texas Occupations Code, §55.004 and §55.005. [~~, no later than the 30th day after the OCCC receives a complete residential mortgage loan originator license application from a qualifying applicant who is a military service member, military veteran, or military spouse, the OCCC will process the application and issue a license to the applicant, if the applicant:~~]

(1) The expedited license procedure in this subsection applies to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant: [~~holds a current license in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117; or~~]

(A) holds a current license in good standing in another state as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117; or

(B) held a residential mortgage loan originator license in Texas within the five years preceding the application date.

(2) After the OCCC receives a complete license application from a qualifying applicant under Texas Occupations Code, §55.004 and this subsection, the OCCC will promptly issue a provisional license to the applicant or issue the license for which the applicant applies. A provisional license expires on the earlier of: [~~held a residential mortgage loan originator license in Texas within the five years preceding the application date.~~]

(A) the date the OCCC approves or denies the application; or

(B) the 180th day after the date the provisional license is issued.

(3) Not later than the 10th day after the OCCC receives a complete license application from a qualifying applicant under Texas Occupations Code, §55.004 and this subsection, the OCCC will process the application and either:

(A) approve the license application and issue a license to the applicant; or

(B) if the applicant does not meet the eligibility requirements for a license under Texas Finance Code, Chapter 180, deny the license application or send a notice of intent to deny the application.

(e) Recognition of out-of-state license [~~Authorization~~] for military service member or [~~members and~~] military spouse under Texas Occupations Code, §55.0041 [~~spouses~~].

(1) As provided by Texas Occupations Code, §55.0041, a military service member or military spouse may engage in business as a residential mortgage loan originator if the member or spouse is currently licensed in good standing in another state [~~jurisdiction~~] as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117.

(2) Before engaging in business in Texas, the military service member or military spouse must comply with the notification requirements described by Texas Occupations Code, §55.0041(b). If the member or spouse does not obtain a residential mortgage loan originator license in Texas, then the member or spouse is limited to the time period described by Texas Occupations Code, §55.0041(d)-(d-1).

(3) After the OCCC receives the information required by Texas Occupations Code, §55.0041(b) from a qualifying applicant, the OCCC will promptly send a notification under subsection (e)(4) of this section or issue a provisional license to the applicant. A provisional license expires on the earlier of:

(A) the date the OCCC sends a notification under subsection (e)(4) of this section; or

(B) the 180th day after the date the provisional license is issued.

(4) Not later than the 10th business day after the date the OCCC receives the information required by Texas Occupations Code, §55.0041(b) from a qualifying applicant, the OCCC will notify the applicant that:

(A) the OCCC recognizes the applicant's out-of-state license;

(B) the application is incomplete; or

(C) the OCCC is unable to recognize the applicant's out-of-state license because the OCCC does not issue a license similar in scope of practice to the applicant's license.

(5) [~~(3)~~] For purposes of this subsection and Texas Occupations Code, §55.0041, a residential mortgage loan originator license issued in another state [~~jurisdiction~~] is similar in scope of practice [~~substantially equivalent~~] to a Texas residential mortgage loan originator license if it is issued in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117. The OCCC will verify a license issued in another state [~~jurisdiction~~] through NMLS. [~~The OCCC will review available information in NMLS no later than the 30th day after the military service member or military spouse submits the information required by Texas Occupations Code, §55.0041(b)(1)-(2)~~].

(f) Credit toward licensing requirements. As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military veteran, the OCCC will credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a residential mortgage loan originator license, by considering the service, training, or education as part of the applicant's employment history.

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

Filed with the Office of the Secretary of State on August 15, 2025.

TRD-202502942
Matthew Nance
General Counsel, Office of Consumer Credit Commissioner
Finance Commission of Texas
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 936-7660

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PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 55. RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER B. LICENSING

7 TAC §55.110

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML), proposes amendments in 7 TAC §55.110, concerning Licensing of Military Service Members, Military Veterans, and Military Spouses (proposed rule).

Explanation of and Justification for the Rule

Existing §55.110 specifies licensing requirements for military service members, military veterans, and military spouses applying for an individual residential mortgage loan originator (originator) license, in accordance with Occupations Code Chapter 55.

Changes Concerning Implementation of HB5629 and SB1818

House Bill 5629 (HB5629) and Senate Bill 1818 (SB1818) were enacted during the 89th Legislature, Regular Session (2025) and become effective September 1, 2025. HB5629 and SB1818 amend Occupations Code Chapter 55. The proposed rule is designed to implement the requirements of HB5629 and SB422. The proposed rule, if adopted, would: in subsection (b)(2), add a new definition for "in good standing" by adopting by reference the definition in Occupations Code §55.0042; in subsection (d)(3), provide that within 10 business days after the date SML receives a complete license application and written request for military licensing review from a qualifying applicant, SML will approve the application and issue a license to the applicant, issue a provisional license to the applicant pending a final decision on the application, or notify the applicant that the license held by the individual in another state is not similar in scope of practice to an originator license issued by SML, if applicable; in subsection (d)(4), provide that, if a provisional license is issued, SML will make a final decision on the application within 120 days after the date the provisional license is issued; in subsection (d)(5), provide that, if an applicant holds a license in good standing in another state that is similar in scope of practice to an originator license issued by SML, the applicant will be assigned a license status in NMLS that confers temporary authority to act as an originator in accordance with Finance Code §180.0511 and 7 TAC §55.109 (relating to Temporary Authority); and, in subsection (e), clarify that recognition of a license held in another state is based on whether the license is similar in scope of practice to an originator license issued by SML.

Other Modernization and Update Changes

The proposed rule, if adopted, would make changes to modernize and update the rule, including: adding and replacing language for clarity and improve readability; removing unnecessary or duplicative provisions; and updating terminology.

Fiscal Impact on State and Local Government

Antonia Antov, Director of Operations for SML, has determined that for the first five-year period the proposed rule is in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rule. Antonia Antov has further determined that for the first five-year period the proposed rule is in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rule. Antonia Antov has further determined that for the first five-year period the proposed rule is in effect there are no foreseeable increases or reductions in costs or losses or increases in revenue to the state overall that would impact the state's general revenue fund as a result of enforcing or administering the proposed rule. Implementation of the proposed rule will not require an increase or decrease in future legislative appropriations to SML because SML is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rule will not result in losses or increases in revenue to the state because SML does not contribute to the state's general revenue fund.

Public Benefits

William Purce, Director of Mortgage Regulation for SML, has determined that for each of the first five years the proposed rule is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be for the public to have notice of the licensing requirements for a military service member, military veteran, or military spouse applying for an originator license.

Probable Economic Costs to Persons Required to Comply with the Proposed Rule

William Purce has determined that for the first five years the proposed rule is in effect, there are no probable economic costs to persons required to comply with the proposed rule that are directly attributable to the proposed rule for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs).

One-for-One Rule Analysis

Pursuant to Finance Code §16.002, SML is a self-directed semi-independent agency and thus not subject to the requirements of Government Code §2001.0045.

Government Growth Impact Statement

For each of the first five years the proposed rule is in effect, SML has determined the following: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rule does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rule does not require an increase or decrease in fees paid to the agency; (5) the proposed rule does create a new regulation (rule requirement). The proposed rule related to Changes Concerning Implementation of HB5629 and SB1818 establishes various rule requirements, as discussed in that section; (6) the proposed rule does expand, limit, or repeal an existing regulation (rule requirement). The proposed rule related to Changes Concerning Implementation of HB5629 and SB1818 expands, limits, or repeals existing rule requirements, as discussed in that section; (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rule. As a result, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

The proposed rule will not have an adverse effect on small or micro-businesses or rural communities because there are no probable economic costs anticipated to persons required to comply with the proposed rule. As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required.

Takings Impact Assessment

There are no private real property interests affected by the proposed rule. As a result, preparation of a takings impact assessment as provided by Government Code §2007.043 is not required.

Public Comments

Written comments regarding the proposed rule may be submitted by mail to Iain A. Berry, General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov. Comments must be received within 30 days after publication of this notice.

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, and as required to carry out the intentions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. §§5101-5117); and Finance Code §180.004(b), authorizing the commission to implement rules necessary to comply with Finance Code Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009. This proposal is also made under the authority of, and to implement, Occupations Code Chapter 55.

This proposal affects the statutes in Finance Code Chapters 157 and 180.

§55.110. Licensing of Military Service Members, Military Veterans, and Military Spouses.

(a) (No change.)

(b) Definitions. In this section:[~~, the terms "military service member," "military spouse," and "military veteran" have the meanings assigned by Occupations Code §55.001.~~]

(1) The terms "military service member," "military spouse," and "military veteran" have the meanings assigned by Occupations Code §55.001.

(2) The term "in good standing" has the meaning assigned by Occupations Code §55.0042.

(c) Late Renewal (Reinstatement) for Military Service Members (Occupations Code §55.002). An [~~As provided by Occupations Code §55.002, an~~] individual is exempt from any increased fee or other penalty for failing to renew an [~~his or her~~] originator license in a timely manner if the individual establishes to the satisfaction of SML [~~the Commissioner~~] that he or she failed to timely renew the license because the individual was serving as a military service member. A military service member who fails to timely renew his or her originator license must seek reinstatement of the license within the time period specified by Finance Code §157.016; otherwise, the individual must obtain a new license, including complying with the current requirements and procedures [~~then in existence~~] for obtaining an original license (see §55.103 of this title (relating to Renewal of the License)).

(d) Expedited Review and Processing (Occupations Code §55.004 and §55.005) and Recognition of an Out-of-State License (Occupations Code §55.0041). [~~Occupations Code §55.005 provides that a military service member, military veteran, or military spouse is entitled to expedited review and processing of his or her application for an originator license. A military service member, military veteran, or military spouse seeking expedited review of his or her application must, after applying for the license in NMLS, make a written request for expedited review using the current form prescribed by SML and posted on its website (sml.texas.gov), including providing the supporting documentation specified in the form, to enable SML to verify the individual's status as a military service member, military veteran, or military spouse. SML, within 30 days after the date it~~

~~receives a complete application and request for expedited review from a qualifying applicant who is a military service member, military veteran, or military spouse, will process the application, and, provided the applicant is otherwise eligible to receive the license, issue a license to the applicant, if the applicant:~~]

(1) This subsection applies to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant:

(A) holds a current license in good standing in another state that is similar in scope of practice to an originator license issued by SML; or

(B) was licensed by SML as an originator within the 5 years preceding the application date.

(2) A military service member, military veteran, or military spouse seeking expedited review under Occupations Code §55.004 and §55.005 or recognition of an out-of-state license under Occupations Code §55.0041 must apply for the license in NMLS. After applying for the license in NMLS, the applicant must make a written request for military licensing review using the current form prescribed by SML and posted on its website (sml.texas.gov), and provide the supporting documentation specified in the form to enable SML to verify the individual's military status and evaluate the individual's qualifications under this subsection.

(3) Within 10 business days after the date SML receives a complete license application and written request for military licensing review from a qualifying applicant under this subsection, SML will:

(A) approve the application and issue a license to the applicant;

(B) issue a provisional license to the applicant pending a final decision on the application; or

(C) notify the applicant that the license held by the individual in another state is not similar in scope of practice to an originator license issued by SML, if applicable.

(4) If a provisional license is issued under paragraph (3)(B) of this subsection, SML will make a final decision on the application within 120 days after the date the provisional license is issued.

(5) If the applicant holds a current license in good standing in another state that is similar in scope of practice to an originator license issued by SML, the applicant will be assigned a license status in NMLS that confers temporary authority to act as an originator in accordance with Finance Code §180.0511 and §55.109 of this title (relating to Temporary Authority), and subject to those requirements.

~~[(1) is licensed as an originator in another jurisdiction with substantially equivalent licensing requirements; or]~~

~~[(2) was licensed as an originator in Texas within the 5 years preceding the date of the application.]~~

~~[(e) Temporary Authority for Military Service Member or Military Spouse. Occupations Code §55.0041 provides that a military service member or military spouse may engage in a business or occupation for which a license is required without obtaining the license if the military service member or military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements. However, federal law imposes specific, comprehensive requirements governing when and under what circumstances an individual licensed to act as an originator in another jurisdiction may act under temporary authority in this state (the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act), 12 U.S.C. §5117 (relating to Employment Transition of Loan Originators)). Occupations Code §55.0041(c) further requires that a military service member or military spouse "comply with all other laws and regulations applicable to the business or occupation." As a result, a military service member or military spouse seeking to avail himself or herself of the temporary authority conferred by Occupations Code §55.0041 must apply for and seek temporary authority in accordance with Finance Code §180.0511 and §55.109 of this title (relating to Temporary Authority).]~~

(e) [~~(f)~~]Scope of Practice [~~Substantial Equivalency~~]. For purposes of this section and Occupations Code Chapter 55 [~~§55.004~~], an originator license issued by a licensing authority in another state has a similar scope of practice to an originator license issued by SML [~~in another jurisdiction is substantially equivalent to a Texas originator license~~] if it is issued in accordance with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 [~~federal SAFE Act~~] (12 U.S.C. §§5501-5117). SML will verify a license issued in another jurisdiction in NMLS.

(f) [~~(g)~~] Credit for Military Experience (Occupations Code §55.007). [~~As provided by Occupations Code §55.007, with respect to an applicant who is a military service member or military veteran,~~] SML will credit an applicant who is a military service member or military veteran with verified military service, training, or education toward the requirements for an originator license by considering the service, training, or education as part of the applicant's employment history. The following items cannot be substituted for military service, training, or education:

(1) - (3) (No change.)

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502959
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 475-1535

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PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 85. PAWNSHOPS AND CRAFTED PRECIOUS METAL DEALERS

SUBCHAPTER A. RULES OF OPERATION FOR PAWNSHOPS

DIVISION 3. PAWNSHOP EMPLOYEE LICENSE

7 TAC §85.309

The Finance Commission of Texas (commission) proposes amendments to §85.309 (relating to Military Licensing) in 7 TAC Chapter 85, Subchapter A, concerning Rules of Operation for Pawnshops.

The rules in 7 TAC Chapter 85, Subchapter A govern pawnshops and pawnshop employees licensed by the Office of

Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapter 371. In general, the purpose of the proposed rule changes is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by HB 5629 and SB 1818 (2025).

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review. The OCCC received an informal precomment from an association of pawnbrokers supporting the proposed changes. The OCCC appreciates the thoughtful input of stakeholders.

Chapter 55 of the Texas Occupations Code describes licensing requirements for military service members, military veterans, and military spouses. Chapter 55 applies to licenses that "must be obtained by an individual to engage in a particular business." Tex. Occ. Code §55.001(3). Chapter 55 includes an expedited license application procedure for certain previously licensed individuals and authorizes certain individuals licensed in other states to engage in licensed occupations in Texas.

HB 5629, which the Texas Legislature passed in 2025, amends various provisions in Chapter 55. Specifically, HB 5629 revises language in Texas Occupations Code, §55.004, on issuing a license to a service member, veteran, or spouse holding a license issued by another state. HB 5629 also amends Texas Occupations Code, §55.0041, to specify documentation required for a service member or spouse to obtain an authorization to practice in Texas based on holding a license in another state. In addition, HB 5629 adds new Texas Occupations Code, §55.0042, describing how a state agency determines whether a person is "in good standing" with another state's licensing authority. Finally, HB 5629 amends Texas Occupations Code, §55.005, to specify a 10-business-day period for issuing a license to an applicant who qualifies under Texas Occupations Code, §55.004. HB 5629 has been approved by the governor and will be effective September 1, 2025.

SB 1818, which the Texas Legislature passed in 2025, also amends Chapter 55. Specifically, SB 1818 amends Texas Occupations Code, §55.004 and §55.0041, to describe circumstances where an agency issues a provisional license and the duration of a provisional license. SB 1818 has been approved by the governor and will be effective September 1, 2025.

Proposed amendments to §85.309 would implement the statutory amendments from HB 5629 and SB 1818 for pawnshop employees licensed by the OCCC. Proposed amendments to §85.309(b) clarify that the term "in good standing" has the meaning provided by Texas Occupations Code, §55.0042 (a new statutory section added by HB 5629). Proposed amendments to §85.309(d) specify the expedited licensing procedure under Texas Occupations Code, §55.004 and §55.005 (as amended by HB 5629 and SB 1818). Finally, proposed amendments to §85.309(e) specify the recognition of out-of-state under Texas Occupations Code, §55.0041 (as amended by HB 5629 and SB 1818). This includes HB 5629's technical changes and SB 1818's changes related to provisional licenses. Other clarifying amendments are proposed throughout §85.309 to improve the section's structure and readability.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of the changes will be that the commission's rules will ensure that the OCCC can effectively administer military licensing requirements under Texas Occupations Code, Chapter 55.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §85.309 in accordance with HB 5629 and SB 1818. The proposal would not limit or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Occupations Code, §55.004 and §55.0041 (as amended by HB 5629 and SB 1818), which authorize a state agency to adopt rules implementing requirements of Texas Occupations Code, Chapter 55. The rule amendments are also proposed under Section 7 of HB 5629, which authorizes a state agency to adopt or modify rules to implement HB 5629's changes, and Section 3 of SB 1818, which authorizes a state agency to adopt rules to implement SB 1818's changes. The rule amendments are also proposed under Texas Finance Code, §371.006, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 371. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Chapter 14 and Title 4.

The statutory provisions affected by the proposal are contained in Texas Occupations Code, Chapter 55 and Texas Finance Code, Chapter 371.

§85.309. Military Licensing.

(a) Purpose and scope. The purpose of this section is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55. This section applies only to employees of pawnbrokers that participate in the pawnshop employee license program.

(b) Definitions. In this section: [~~, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.~~]

(1) The terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.

(2) The term "in good standing" has the meaning provided by Texas Occupations Code, §55.0042.

(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a pawnshop employee in a timely manner, if the individual establishes to the satisfaction of the OCCC that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited license procedure under [~~. As provided by~~] Texas Occupations Code, §55.004 and §55.005. [~~, no later than the 30th day after the OCCC receives a complete pawnshop employee license application from a qualifying applicant who is a military service member, military veteran, or military spouse, the OCCC will process the application and issue a license to the applicant, if the applicant:~~]

(1) The expedited license procedure in this subsection applies to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant: [~~holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas; or~~]

(A) holds a current license in good standing in another state as a pawnshop employee; or

(B) held a pawnshop employee license in Texas within the five years preceding the application date.

(2) After the OCCC receives a complete license application from a qualifying applicant under Texas Occupations Code, §55.004 and this subsection, the OCCC will promptly issue a provisional license to the applicant or issue the license for which the applicant applies. A provisional license expires on the earlier of: [~~held a pawnshop employee license in Texas within the five years preceding the application date.~~]

(A) the date the OCCC approves or denies the application; or

(B) the 180th day after the date the provisional license is issued.

(3) Not later than the 10th day after the OCCC receives a complete license application from a qualifying applicant under Texas Occupations Code, §55.004 and this subsection, the OCCC will process the application and either:

(A) approve the license application and issue a license to the applicant; or

(B) if the applicant does not meet the eligibility requirements for a pawnshop employee license under Texas Finance Code, Chapter 371, deny the license application or send a notice of intent to deny the application.

(e) Recognition of out-of-state license [~~Authorization~~] for military service member or [~~members and~~] military spouse [~~spouses~~] under Texas Occupations Code, §55.0041.

(1) As provided by Texas Occupations Code, §55.0041, a military service member or military spouse may engage in business as a pawnshop employee if the member or spouse holds a current license issued by another state that is similar in scope of practice to the Texas pawnshop employee license and is in good standing with that state's licensing authority [~~is currently licensed in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas~~].

(2) Before engaging in business in Texas, the military service member or military spouse must comply with the notification requirements described by Texas Occupations Code, §55.0041(b), and must notify the OCCC of the state [~~jurisdiction~~] where the member or [~~military~~] spouse is licensed and how the license can be verified. If the member or spouse does not obtain a pawnshop employee license in Texas, then the member or spouse is limited to the time period described by Texas Occupations Code, §55.0041(d)-(d-1).

(3) After the OCCC receives the information required by Texas Occupations Code, §55.0041(b) from a qualifying applicant, the OCCC will promptly send a notification under subsection (e)(4) of this section or issue a provisional license to the applicant. A provisional license expires on the earlier of:

(A) the date the OCCC sends a notification under subsection (e)(4) of this section; or

(B) the 180th day after the date the provisional license is issued.

(4) Not later than the 10th business day after the date the OCCC receives the information required by Texas Occupations Code, §55.0041(b) from a qualifying applicant, the OCCC will notify the applicant that:

(A) the OCCC recognizes the applicant's out-of-state license;

(B) the application is incomplete; or

(C) the OCCC is unable to recognize the applicant's out-of-state license because the OCCC does not issue a license similar in scope of practice to the applicant's license.

(5) [~~(3)~~] For purposes of this section and Texas Occupations Code, §55.0041, the OCCC will determine whether another state's license is similar in scope of practice to the Texas pawnshop employee license [~~the other jurisdiction's licensing requirements are substantially similar to Texas's~~] by reviewing the applicable legal requirements that a license holder must comply with in the other state [~~jurisdiction~~], as well as the application review process in the other state [~~jurisdiction~~]. The OCCC will verify a license issued in another state [~~jurisdiction~~] by requesting records from the appropriate licensing authority. [~~The OCCC will send a request for records to the appropriate licensing authority no later than the 30th day after the military service member or military spouse submits the information required by Texas Occupations Code, §55.0041(b)(1)-(2)~~].

(f) Credit toward licensing requirements. As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military veteran, the OCCC will credit

verified military service, training, or education toward the licensing requirements for a pawnshop employee license, by considering the service, training, or education as part of the applicant's employment history.

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

Filed with the Office of the Secretary of State on August 15, 2025.

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Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
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For further information, please call: (512) 936-7660

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION
SUBCHAPTER N. GENERAL EDUCATION CURRICULUM ADVISORY COMMITTEE

19 TAC §§1.180 - 1.184

The Texas Higher Education Coordinating Board (Coordinating Board) proposes rules in Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter N, §§1.180 - 1.184, General Education Curriculum Advisory Committee. Specifically, these new sections will establish the General Education Curriculum Advisory Committee, in accordance with statutory changes made by Senate Bill (SB) 37, 89th Texas Legislature, Regular Session, adopting new Texas Education Code (TEC), §61.0522.

Rule 1.180, Authority and Specific Purposes of the General Education Curriculum Advisory Committee, establishes the statutory authority for the new advisory committee, which comes from TEC, §61.0522, adopted in SB 37. It also states that the purpose of the new advisory committee is to provide advice to the Coordinating Board for its report to the Legislature about which courses should be included in the general education curriculum of Texas institutions of higher education, which courses might implement new TEC, §51.315, and how general education curriculum may be condensed, including methods for considering a shorter core curriculum.

Rule 1.181, Definitions, contains definitions for common terms used in this subchapter. These definitions parallel definitions used in the TEC and in other parts of the Texas Administrative Code and provide clarity to the reader by distinguishing between the governing board and the agency as a whole.

Rule 1.182, Committee Membership and Officers, states the membership requirements of the new committee and the appointment process. The membership requirements are designed to ensure the committee consists of members who represent the interests of two- and four-year institutions of higher education. The rule establishes the advisory committee of fourteen members, a majority of which shall constitute a quorum.

Rule 1.183, Duration and Meetings, states that the committee will continue until September 1, 2027, as required by SB 37. The rule provides for regular meetings of the committee, which shall meet not less than monthly and upon the call of the presiding officer.

Rule 1.184, Tasks Assigned to the Committee, sets out the tasks assigned to the committee, which include providing advice to the Coordinating Board on the items required by SB 37 related to the content and length of courses offered in the general education and core curriculum by institutions of higher education, and into inform the Coordinating Board's required report and recommendations to the Legislature in advance of the 90th legislative session.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the creation of the General Education Curriculum Advisory Committee. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 61.0522, and Texas Government Code, Chapter 2110.

The proposed new sections affect Texas Education Code, §§61.052, 61.0522, 61.059, and Chapter 61, Subchapter S;

Texas Government Code, Chapter 2110; and Texas Administrative Code, Chapter 1, Subchapter N.

§1.180. Authority and Specific Purposes of the General Education Curriculum Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.0522, and Texas Government Code, chapter 2110.

(b) Purposes. The General Education Curriculum Advisory Committee is created to provide the Commissioner and Board with advice on the implementation of Texas Education Code, §61.0522. The committee also performs other duties related to funding that the Board or Commissioner assign to the committee.

§1.181. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless otherwise defined in the subchapter:

(1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(2) Commissioner--The Texas Commissioner of Higher Education.

(3) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

§1.182. Committee Membership and Officers.

(a) The Commissioner will call for nominations from chancellors, presidents, and chief academic officers of institutions of higher education.

(b) The committee shall consist of fourteen members drawn evenly from two and four year institutions of higher education.

(c) The Commissioner shall recommend members to the Board for appointment.

(d) The Commissioner may replace any committee member who the Commissioner determines is not attending meetings or actively engaging in the work of the committee. In such cases, the Commissioner may appoint an alternate member to fill the vacancy drawn from the original list of nominees who were not selected for the committee. Such appointment is subject to Board ratification or disapproval at the next Board meeting following replacement of the committee member.

(e) The Commissioner shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board and the Commissioner.

(f) Each member shall serve a term ending on September 1, 2027, unless otherwise provided by the Board.

(g) The committee may appoint subcommittees or workgroups as necessary to complete the work.

§1.183. Duration and Meetings.

The committee shall continue until September 1, 2027. The committee shall meet at least monthly and may convene more frequently, including multiple times per month, at the discretion of the presiding officer.

§1.184. Tasks Assigned to the Committee.

Tasks assigned to the committee include:

(1) Review the general education curriculum requirements in alignment with Texas Education Code;

(2) Consider methods for determining general education curriculum component area courses;

(3) Explore opportunities for condensing the number of general education courses required by institutions of higher education, which may include the study of a shorter core curriculum requirement;

(4) Submit a written report of findings and recommendations to the Texas Higher Education Coordinating Board no later than September 1, 2026, to inform the Board's December 31, 2026 report to the Legislature; and

(5) Any other charges issued by the Board or Commissioner.

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

Filed with the Office of the Secretary of State on August 14, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 427-6182

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CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER B. TRANSFER OF CREDIT, CORE CURRICULUM AND FIELD OF STUDY CURRICULA

19 TAC §4.27

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B, §4.27, concerning Resolution of Transfer Disputes. Specifically, this amendment will clarify that the institution proposing to deny the credit must notify the Coordinating Board of the dispute if it is not resolved to the satisfaction of the student or the institution that awarded the credit, as required by statute.

Texas Education Code, §61.826, authorizes the Board to adopt rules regarding the procedures for resolution of transfer disputes.

Section 4.27, Resolution of Transfer Disputes for Lower-Division Courses, is amended to clarify that the institution proposing to deny the credit must notify the Coordinating Board of the dispute if it is not resolved to the satisfaction of the student or the institution that awarded the credit, as required by statute.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be to provide more clarity and improved alignment with statutory requirements regarding the steps required for notifying the Coordinating Board of transfer disputes at public institutions of higher education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAcomments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.826, which authorizes the Coordinating Board to adopt rules regarding the procedures for resolution of transfer disputes.

The proposed amendment affects Texas Education Code, Section 61.826, and Texas Administrative Code, Title 19, Part 1, §4.27.

§4.27. Resolution of Transfer Disputes for Lower-Division Courses.

(a) Each institution of higher education shall apply the following procedures in the resolution of credit transfer disputes involving lower-division courses:

(1) If an institution of higher education does not accept and apply a course included in the field of study curriculum for the program in which a student is enrolled or a course in the core curriculum earned by a student at another institution of higher education, the receiving institution shall give written notice to the student and to the sending institution that it intends to deny the transfer of the course credit and shall [~~include in that notice the reasons for the proposed denial. The receiving institution must attach the procedures for resolution of transfer disputes as outlined in this section to the notice. The notice and procedure must include~~]:

(A) include in that notice the reasons for the proposed denial;

[~~(A) clear instructions for appealing the decision to the Commissioner; and~~]

(B) attach the procedures for resolution of transfer disputes as outlined in this section to the notice. The notice and procedure must include:

(i) the name and contact information for the designated official at the receiving institution who is authorized to resolve the credit transfer dispute;

(ii) clear instructions for appealing the decision to the Commissioner.

[~~(B) the name and contact information for the designated official at the receiving institution who is authorized to resolve the credit transfer dispute.~~]

(2) A student who receives notice as specified in paragraph (1) of this subsection may dispute the denial of credit by contacting a designated official at [~~either the sending or~~] the receiving institution.

(3) The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with this section. An institution that proposes to deny the credit shall resolve the dispute not later than the 45th day after the date that the student enrolls at the institution.

(4) If the student or the sending institution is not satisfied with the resolution of the credit transfer dispute, the receiving institution shall notify the Commissioner of the proposed denial of credit in a manner prescribed by the Board.

(5) The [~~the~~] student or the sending institution may also notify the Commissioner [~~in writing~~] of the denial of the course credit and the reasons for denial in a manner prescribed by the Board.

(b) Not later than the 20th business day after the date that the Commissioner receives the notice of dispute concerning the application of credit for course(s) in the core curriculum or field of study curriculum, the Commissioner or the Commissioner's designee shall make the final determination about a credit transfer dispute and give written notice of the determination to the student and each institution.

(c) If the Commissioner or the Commissioner's designee determines that an institution may not deny the transfer of credit for course(s) in the core curriculum or the field of study curriculum, the receiving institution shall accept and apply the credit toward the core curriculum or the field of study as determined by the Commissioner or the Commissioner's designee.

(d) A decision under this section is not a contested case. The Commissioner or the Commissioner's designee's decision is final and may not be appealed. Each transfer credit dispute resolved by the Commissioner shall be posted on the Board website, including the final determination.

(e) Each institution of higher education shall publish in its course catalogs the procedures specified in this section.

(f) The Board shall collect data on the types of transfer disputes that are reported and the disposition of each case that is considered by the Commissioner or the Commissioner's designee.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 427-6182

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER P. TUITION EXEMPTIONS AND WAIVERS

19 TAC §§13.460 - 13.479

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P, §§13.460 - 13.479, concerning Tuition Exemptions and Waivers. Specifically, this new section will consolidate all existing rules relating to tuition exemptions and waivers; apply general provisions relating to program classification, reporting, and administration; and establish new rules relating to the Economic Development and Diversification Waiver. The Coordinating Board is authorized by Texas Education Code, §§51.930, 54.213, 54.222, 54.2031, 54.231, 54.331, 54.353, 54.3531, 54.3532 (enacted by House Bill 1105, 89th Texas Legislature, Regular Session), 54.355, 54.356, and 54.363, to adopt rules relating to the exemption and waiver programs included in the proposed subchapter.

Rule 13.460, Definitions, provides common definitions used across multiple programs in the subchapter, including those for "exemption," "waiver," and "mandatory" and "discretionary" exemptions and waivers to be used for program classification and reporting. Exemptions are non-waiver programs that allow eligible students to pay a reduced amount of tuition and fees. Waivers, by contrast, allow eligible nonresident students to pay the resident tuition rate. Mandatory exemptions and waivers are those that institutions are obligated to offer to eligible students (subject to specific limitations), while institutions are merely authorized (but not obligated) to offer discretionary exemptions and waivers to eligible students.

Rule 13.461, Adoption by Reference, adopts by reference the *Exemptions and Waivers Summary*, a document published by the Coordinating Board that specifies whether each program authorized by statute is an exemption or a waiver, as well as whether each is mandatory or discretionary. The purpose of this document is to provide greater clarity to institutions regarding the status of the dozens of authorized exemptions and waivers, most of which do not require administrative rules, for reporting, accounting, and other business purposes.

Rule 13.462, Classifications and Reporting, directs institutions to use the *Exemptions and Waivers Summary* in making certain determinations related to exemptions and waivers. Subsection (b) codifies current practice in directing institutions to report exemptions and waivers as part of its Financial Aid Database, Integrated Fiscal Reporting System, and Annual Financial Reports submissions. To the extent that subsection (b) covers the reporting requirements included in current rules for exemption and waiver programs, those provisions have been eliminated in their respective sections in this subchapter.

Rule 13.463, Satisfactory Academic Progress, provides for the common eligibility requirement that a student receiving an exemption make sufficient progress toward the student's intended degree or certificate. This section aligns with provisions of Texas Education Code, §54.2001. Subsection (b) provides for how a student who does not meet satisfactory academic progress requirements may re-establish eligibility. Subsection (c) provides guidance to institutions regarding how to calculate student grade point averages for this purpose, and subsection (d) clarifies the applicability of the section.

Rule 13.464, Hardship Provisions, outlines the circumstances and procedures by which a student who fails to make satisfactory academic progress or who attempts an excessive number of semester credit hours may continue to receive an exemption. The section aligns both with Texas Education Code, §54.2001, as well as similar provisions in other financial aid programs.

Rule 13.465, Restrictions on Exemptions and Waivers, states two notable restrictions on the offering of exemptions and waivers to students. Subsection (a) aligns with Texas Education Code, §54.2002, and states that an exemption or waiver may not be offered for coursework for which the institution does not receive formula funding, and subsection (b) states the restrictions associated with undergraduate students who have completed an excessive number of semester credit hours. Subsection (c) clarifies that in order to be eligible for exemptions and waivers under this subchapter, a student must be lawfully present in the United States, pursuant to *United States v. Texas*, No. 7:25-cv-00055-O (N.D. Tex. June 4, 2025).

Rule 13.466, Children of Professional Nursing Program Faculty and Staff Exemption, provides for the mandatory exemption offered to eligible students whose parents are employed by the student's institution as faculty or staff of the professional nursing program. The rule is the reconstituted Chapter 21, Subchapter I, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability, except that erroneous references to the parent's full-time employment status have been removed to align with statute.

Rule 13.467, Clinical Preceptors and Children Exemption, provides for the mandatory exemption to eligible persons serving as clinical preceptors and their children attending institutions of higher education. It is the reconstituted Chapter 21, Subchapter L, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the rule.

Rule 13.468, Peace Officers Enrolled in Law Enforcement or Criminal Justice Courses Exemption, provides for the mandatory exemption for eligible peace officers who enroll in coursework related to their employment. It is the reconstituted Chapter 21, Subchapter Q, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the rule.

Rule 13.469, Firefighters Enrolled in Fire Science Courses Exemption, provides for the mandatory exemption for eligible professional and volunteer firefighters who enroll in coursework related to their employment. It is the reconstituted Chapter 21, Subchapter Z, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the rule.

Rule 13.470, Paramedics Enrolled in Emergency Medical Services Courses, provides for the mandatory exemption for eligible paramedics who enrolled in coursework related to their employment. This new rule implements the provisions of Texas Education Code, §54.3532, as established by House Bill 1105, 89th Texas Legislature, Regular Session. Subsection (a) provides for the statutory authority, and subsection (b) establishes the program as a mandatory exemption, with exceptions established in subsections (f) and (g). Subsection (c) provides for student eligibility, including a requirement in (c)(2) that the student must be certified or licensed as a paramedic by the Texas Department of State Health Services. Subsections (d) and (e) relate to institutions identifying, and the Coordinating Board publishing, a list of

eligible emergency medical services degree and certificate programs in which an eligible student must be enrolled to receive an exemption. Subsection (f) outlines exceptions to the exemption as provided in Texas Education Code, §54.5352(d) and (e). Subsection (g) provides for a cap on exemptions offered in a certain number of eligible courses offered exclusively via distance education, as described in Texas Education Code, §54.5352(f) and (g)(1)(C).

Rule 13.471, Good Neighbor Program, provides for the discretionary exemption program offered to eligible students who are citizens or permanent residents of other nations in the Western Hemisphere. It is the reconstituted Chapter 21, Subchapter U, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability, except that subsection (f), which relates to the Coordinating Board's selection methodology for nominated students, has been substantively edited to more closely reflect current practice.

Rule 13.472, Educational Aide Exemption, provides for the mandatory (subject to available appropriated funds) exemption program for eligible students who have worked as educational aides. It is the reconstituted Chapter 21, Subchapter II, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. The only substantive change to the rule is to omit the rule directive to the Coordinating Board to publish an application form for the program annually, which was outdated given changes made to statute regarding institutional responsibility for making eligibility determinations.

Rule 13.473, Dependent Children of Armed Forces Members Deployed on Combat Duty Exemption, provides for the mandatory exemption for eligible students who are the dependent children of a member of the armed forces who is deployed on active duty outside the United States. It is the reconstituted Chapter 21, Subchapter TT, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the rule.

Rule 13.474, Reciprocal Educational Exchange Program, provides for the discretionary waiver offered as part of institutions' reciprocity agreements with international institutions for exchange student programs. It is the reconstituted Chapter 21, Subchapter AA, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. Current §21.909, was eliminated as it provided guidance to institutions that could be construed as a directive to institutions but is better presented as a recommendation in program informational materials.

Rule 13.475, Border County Waiver, provides for mandatory waivers offered to eligible students from Mexico who attend institutions in a county along the Texas-Mexico border. It is the reconstituted Chapter 21, Subchapter TT, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. Provisions of that subchapter relating to the Citizens of Mexico Pilot Program, which is distinct from the Border County Waiver, have instead been moved into §13.476, for greater clarity. There are no substantive changes to the rule.

Rule 13.476, Citizens of Mexico Waiver Pilot Program, provides for the discretionary waiver pilot program authorized by Texas Education Code, §54.231(c). This program allows general academic teaching institutions and public technical institutions, regardless of geography, to offer a limited number of waivers to eligible students from Mexico who demonstrate financial need. This rule is the reconstituted applicable elements of current Chapter 21, Subchapter BB, condensed into a single section with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the operation of the pilot program as a result of this rule change; however, the requirement of full-time enrollment has been removed to align with the authorizing statute.

Rule 13.477, Texas National Student Exchange Program Waiver, provides for discretionary waivers offered to nonresident students who attend Texas institutions as part of the National Student Exchange Program. It is the reconstituted Chapter 21, Subchapter EE, condensed into a single section, reorganized, and with nonsubstantive edits to improve rule clarity and readability. There are no substantive changes to the rule.

Rule 13.478, Competitive Scholarships Waiver, provides for discretionary waivers offered to nonresident students who receive a merit-based scholarship from their Texas institution. It is the reconstituted §21.2263, reorganized and with nonsubstantive changes to clarify eligibility requirements.

Rule 13.479, Economic Development and Diversification Waiver, provides for the mandatory waiver offered to nonresident students who have relocated to Texas due to the student's or the student's family's employment by a business that became established in Texas as part of a state economic development or diversification program. This is a new rule, authorized by Texas Education Code, §54.222. Subsection (b) establishes that all institutions of higher education shall offer this waiver to eligible students. Subsection (c) provides for student eligibility, including residency and Selective Service requirements, as well as the conditions of the student's or the student's family's relocation. Subsection (d) clarifies the family members whose relocation may confer eligibility for the waiver to the student. Subsection (e) codifies the Coordinating Board's current practice of publishing a list of relocated companies, the employees (and by extension, their families) of which may receive a waiver, as well as the date by which a student associated with that company must enroll to qualify for a waiver.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved program administration and rule clarity. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Sections 51.930, 54.213, 54.222, 54.2031, 54.231, 54.331, 54.353, 54.3531, 54.3532, 54.355, 54.356, and 54.363, which provide the Coordinating Board with the authority to adopt rules relating to the exemption and waiver programs included in the subchapter.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 13.

§13.460. Definitions.

In addition to the words and terms defined in §13.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise or the relevant subchapter specifies a different definition:

(1) Cost of Attendance--An institution's estimate of the expenses incurred by a typical financial aid recipient in attending a particular institution of higher education. It includes direct educational costs (tuition and fees) as well as indirect costs (room and board, books and supplies, transportation, personal expenses, and other allowable costs for financial aid purposes).

(2) Discretionary Exemption or Waiver--An exemption or waiver that an eligible institution, as specified in program rules, may choose to offer to an eligible student.

(3) Exemption--A program authorized by state statute that allows an eligible student enrolled in an institution of higher education to pay a reduced amount of tuition and/or fees, except that a waiver, as defined by this section, is not considered an exemption.

(4) Financial Need--The cost of attendance at a particular institution of higher education or private or independent institution of higher education less the Student Aid Index, as those terms are defined in this section.

(5) Full-time--For undergraduate students, the equivalent of at least 12 semester credit hours per semester or as defined by the institution. For graduate students, the equivalent of at least 9 semester credit hours per semester or as defined by the institution.

(6) Laboratory Fees--Fees authorized by Texas Education Code, §54.501, that an institution of higher education collects to cover the general cost of laboratory materials and supplies used by a student.

(7) Mandatory Exemption or Waiver--An exemption or waiver that an eligible institution, as specified in program rules, is obligated to offer to an eligible student.

(8) Student Aid Index--A measure utilized to calculate a student's financial need as regulated and defined by the methodology used for federal student financial aid.

(9) Tuition--Includes statutory tuition, designated tuition, and governing board-authorized tuition.

(10) Waiver--A program authorized by state statute that allows a nonresident student enrolled in an institution of higher education who would otherwise be charged the nonresident tuition rate to pay the tuition rate charged to a similarly situated resident student.

§13.461. Adoption by Reference.

The Coordinating Board adopts by reference the *Exemptions and Waivers Summary*, published by the Coordinating Board on its website.

§13.462. Classifications and Reporting.

(a) For the purposes of data reporting, accounting, and any other relevant business operations, a participating institution shall use the *Exemptions and Waivers Summary*, in determining whether a program authorized by Texas Education Code, chapter 54, subchapter D, is an exemption or waiver program, and whether that program is mandatory or discretionary, as the terms are defined in §13.460 of this subchapter (relating to Definitions).

(b) A participating institution will report data relating to exemptions and waivers as part of its annual Financial Aid Database, Integrated Fiscal Reporting System, and Annual Financial Reports submissions, in accordance with their respective manuals.

§13.463. Satisfactory Academic Progress.

(a) Satisfactory Academic Progress. A student who receives an exemption under this subchapter during a semester or term at an institution of higher education may continue to receive the exemption only if the student maintains a grade point average that satisfies the institution's grade point average requirement for making satisfactory academic progress toward a degree or certificate, unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(b) Re-Establishing Eligibility. If on the completion of any semester or term a student fails to meet the grade point average requirement described by subsection (a) of this section, the student may not receive the exemption during the following semester or term. The student may become eligible to receive an exemption in a subsequent semester or term if the student:

(1) completes a semester or term during which the student is not eligible for the exemption;

(2) meets the grade point average requirement described by paragraph (1) of this subsection; and

(3) meets all other eligibility requirements for the exemption.

(c) The institution shall calculate a student's grade point average in accordance with §22.10 of this title (relating to Grade Point Average Calculations for Satisfactory Academic Progress).

(d) Applicability. The provisions of this section do not apply to waivers, as defined in §13.460 of this subchapter (relating to Definitions) or to the exemptions authorized by Texas Education Code, §§54.217; 54.341(a-2)(1)(A), (B), (C), or (D) and (b)(1)(A), (B), (C), or (D); 54.342; 54.366; or 54.367.

§13.464. Hardship Provisions.

(a) In the event of a hardship or for other good cause, an institution of higher education may allow an otherwise eligible student to receive an exemption if:

(1) the student fails to maintain a grade point average as required by §13.463(a) of this subchapter (relating to Satisfactory Academic Progress); or

(2) as an undergraduate student, the student has completed an excess number of hours as described in §13.465(b) of this subchapter (relating to Restrictions on Exemptions and Waivers).

(b) Hardship conditions may include, but are not limited to:

(1) documentation of a severe illness or other debilitating condition that may affect the student's academic performance;

(2) documentation that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance;

(3) documentation of the student's active duty or other service in the United States armed forces or active duty in the Texas National Guard; or

(4) documentation of the birth of a child or placement of a child with the student for adoption or foster care, that may affect the student's academic performance.

(c) Documentation of the hardship circumstances approved for a student to receive an exemption must be kept in the student's files.

(d) Each institution of higher education shall adopt a hardship policy under this section.

§13.465. Restrictions on Exemptions and Waivers.

(a) Formula-Funded Courses. Notwithstanding any other rule, an exemption or waiver from the payment of tuition or fees offered under this subchapter may be applied only to courses for which an institution of higher education receives formula funding.

(b) Excess Hours. An undergraduate student is ineligible to receive an exemption under this subchapter if, at the start of a semester or term, the student has completed a number of semester credit hours that is considered to be excessive under Texas Education Code, §54.014, excluding semester credit hours earned:

(1) exclusively by examination;

(2) for a course for which the student received credit toward the student's high school academic requirements; and

(3) for developmental courses that the student's institution required the student to take under Texas Education Code, chapter 51, subchapter F-1.

(c) Legal Status. Notwithstanding any other rule, a student must be lawfully present in the United States to be eligible for any exemption or waiver under this subchapter.

§13.466. Children of Professional Nursing Program Faculty and Staff Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.355.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Child--A child 25 years or younger, including an adopted child.

(2) Graduate Professional Nursing Program--An educational program of a public institution of higher education that prepares students for a master's or doctoral degree in nursing.

(3) Undergraduate Professional Nursing Program--A public educational program for preparing students for initial licensure as registered nurses.

(c) Participating Institutions. An institution of higher education, as defined by §13.1 of this chapter (relating to Definitions), that offers an undergraduate or graduate professional nursing program, as defined in subsection (b) of this section, shall provide an exemption to eligible students in accordance with this section.

(d) Eligible Students. To be eligible for an exemption under this section, a student must:

(1) be a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(2) not have been granted a baccalaureate degree;

(3) be enrolled at an institution of higher education that offers an undergraduate or graduate program of professional nursing;

(4) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(5) be the child of an individual who:

(A) at the beginning of the semester or other academic term for which an exemption is sought:

(i) holds a master's or doctoral degree in nursing, and who is employed by an undergraduate or graduate professional nursing program at a participating institution as a member of the faculty or staff, with duties that include teaching, performing research, serving as an administrator, or performing other professional services; or

(ii) holds a baccalaureate degree in nursing, and who is employed by a professional nursing program at a participating institution as a full-time teaching assistant; or

(B) during all or part of the semester or other academic term for which an exemption is sought:

(i) holds a master's or doctoral degree in nursing, and who has contracted with an undergraduate or graduate professional nursing program in this state to serve as a member of its faculty or staff with duties that include teaching, performing research, serving as an administrator, or performing other professional services; or

(ii) holds a baccalaureate degree in nursing, and who has contracted with a professional nursing program offered by a participating institution to serve as a teaching assistant;

(6) be enrolled at the same institution of higher education at which the student's parent is currently employed or with which the parent has contracted, as described in paragraph (5) of this subsection; and

(7) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(e) Discontinuation of Eligibility. In addition to the limitations on eligibility described by §13.465 of this subchapter (relating to Restrictions on Exemptions and Waivers), a person's eligibility for an exemption under this section ends after the person has received exemptions under this section for 10 semesters or summer sessions. For

the purposes of this subsection, a summer session that is less than nine weeks in duration is considered one-half of a summer session.

(f) Proration of Exemption. If the student's parent described by subsection (d)(5) of this section is employed on less than a full-time basis, the institution shall prorate the value of the exemption in accordance with the parent's employment load. Regardless of the employment load, the exemption shall not be for less than 25 percent of the student's tuition.

(g) Application. To apply for an exemption under this section, a student shall submit to his or her institution a completed Professional Nursing Faculty and Staff Exemption Application, which the Coordinating Board shall publish on its website.

§13.467. Clinical Preceptors and Children Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.356.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Child--A child 25 years or younger, including an adopted child.

(2) Clinical Preceptor or Preceptor--A registered nurse or other licensed health professional who meets the requirements below and who is not paid as a faculty member by an institution of higher education, but who directly supervises a nursing student's clinical learning experience in a manner prescribed by a signed written agreement between the educational institution, preceptor, and affiliating agency. A clinical preceptor has the following qualifications:

(A) competence in designated areas of practice;

(B) a philosophy of health care congruent with that of the nursing program;

(C) current licensure or privilege as a registered nurse in the State of Texas; and

(D) if not a registered nurse, holds a current license in Texas as a health care professional with a minimum of a bachelor's degree in that field.

(c) Participating Institutions. An institution of higher education, as defined in §13.1 of this chapter (relating to Definitions) shall provide an exemption under this section to all eligible persons enrolled at the institution.

(d) Eligible Students. To be eligible for an exemption under this section, a student must:

(1) be a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(2) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(3) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions); and

(4) be one of the following:

(A) a registered nurse who serves, on average, at least one day per week under a written preceptor agreement with an undergraduate professional nursing program as a clinical preceptor for students enrolled in the program for:

(i) the time period the program conducts clinicals during the semester or other academic term for which the exemption is sought; or

(ii) the time period the program conducted clinicals during a semester or other academic term that ended less than one year prior to the beginning of the semester or term in which the exemption is to be used; or

(B) an undergraduate student who is the child of a clinical preceptor described by subparagraph (A) of this paragraph, regardless of whether the preceptor also is receiving or has received an exemption based on the same period of service.

(e) Discontinuation of Eligibility. In addition to the limitations on eligibility described by §13.465 of this subchapter (relating to Restrictions on Exemptions and Waivers), a person described by subsection (d)(4)(B) of this section is no longer eligible to receive an exemption under this section if the person has:

(1) received a baccalaureate degree; or

(2) previously received exemptions under this section for 10 semesters or summer sessions. For the purpose of this subsection, a summer session that is less than nine weeks in duration is considered one-half of a summer session.

(f) Exemption Amount. The value of an exemption granted under this program is equal to $500 or the student's tuition, whichever is less.

(g) Application. To apply for an exemption under this section, a student shall submit to his or her institution a completed Clinical Preceptor Exemption Application, which the Coordinating Board shall publish on its website.

§13.468. Peace Officers Enrolled in Law Enforcement or Criminal Justice Courses Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.3531.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), in this section, the term "undergraduate student" means a person who has not previously been awarded a baccalaureate degree.

(c) Participating Institutions. An institution of higher education, as defined in §13.1 of this chapter (relating to Definitions) shall provide an exemption to an eligible student for tuition and laboratory fees associated with eligible courses in accordance with this section. The exemption does not apply to security deposits for the return or proper care of property loaned to the student.

(d) Eligible Student. To be eligible for an exemption under this section, a student must:

(1) be an undergraduate student enrolled in an eligible criminal justice or law enforcement-related degree or certificate program;

(2) be employed as a peace officer, as defined in Texas Code of Criminal Procedure, §2A.001, by this state or by a political subdivision of this state;

(3) apply for the exemption at least one week before the last day of the institution's regular registration period for that semester;

(4) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration); and

(5) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(e) Eligible Degree or Certificate Programs. Each institution of higher education shall identify criminal justice or law enforcement-related degree or certificate programs offered by the institution and submit a list of the identified programs to the Coordinating Board. The Coordinating Board shall compile and publish a list of all institutions' identified programs on its website.

(f) Eligible Courses.

(1) An exemption provided under this section applies only to courses pertaining to criminal justice or law enforcement-related degree or certificate programs published by the Coordinating Board in accordance with subsection (e) of this section.

(2) An institution shall not apply an exemption to courses that make up the general education core curriculum required for all degrees or to courses that are not criminal justice or law enforcement-related, even if they are included in the criminal justice or law enforcement-related degree or certificate program.

(3) For a given eligible course, not more than 20 percent of the maximum student enrollment designated by the institution may receive an exemption under this section.

(g) Report to Legislature. If the Legislature does not specifically appropriate funds to an institution of higher education in an amount sufficient to pay the institution's costs in complying with this section for a semester, the governing board of the institution shall report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this section for that semester.

§13.469. Firefighters Enrolled in Fire Science Courses Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.353.

(b) Participating Institutions. An institution of higher education, as defined in §13.1 of this chapter (relating to Definitions) shall provide an exemption to an eligible student for tuition and laboratory fees associated with eligible courses in accordance with this section. The exemption does not apply to security deposits for the return or proper care of property loaned to the student.

(c) Eligible Students. To be eligible for an exemption under this section, a student must:

(1) be enrolled at a participating institution;

(2) be either:

(A) a paid firefighter employed by a political subdivision of the State of Texas; or

(B) a volunteer firefighter who:

(i) is currently, and has been for the past year, an active member of an organized volunteer fire department in this state that participates in the Texas Emergency Services Retirement System or a retirement system established under the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes); and

(ii) holds one of the following credentials:

(I) an Accredited Advanced level of certification, or an equivalent successor certification, under the State Firemen's and Fire Marshals' Association of Texas volunteer certification program; or

(II) a Phase V (Firefighter II) certification, or an equivalent successor certification, under the Texas Commission on Fire Protection's voluntary certification program under Texas Government Code, §419.071;

(3) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration); and

(4) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(d) Eligible Degree or Certificate Program. Each institution of higher education shall identify fire science degree or certificate programs offered by the institution and submit a list of the identified programs to the Coordinating Board. The Coordinating Board shall compile and publish a list of all institutions' identified programs on its website.

(e) Eligible Courses.

(1) An exemption provided under this section applies only to courses pertaining to fire science degree or certificate programs published by the Coordinating Board in accordance with subsection (d) of this section.

(2) An institution shall not apply an exemption to courses that make up the general education core curriculum required for all degrees or to courses that are not fire science-related, even if they are included in the fire science degree or certificate program.

(f) Exception. Notwithstanding subsection (c) of this section, an exemption applied under this section does not apply to any amount of tuition the institution:

(1) elects to charge a resident undergraduate student under Texas Education Code, §54.014(a) or (f); or

(2) charges a graduate student in excess of the amount of tuition charged to similarly situated graduate students because the student has a number of semester credit hours of doctoral work in excess of the applicable number provided by Texas Education Code, §61.059(l)(1) or (2).

§13.470. Paramedics Enrolled in Emergency Medical Services Courses.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.3532.

(b) Participating Institutions. An institution of higher education, as defined in §13.1 of this chapter (relating to Definitions) shall provide an exemption to an eligible student for tuition and laboratory fees associated with eligible courses in accordance with this section. The exemption does not apply to security deposits for the return or proper care of property loaned to the student.

(c) Eligible Students. To be eligible for an exemption under this section a student must:

(1) be enrolled at a participating institution;

(2) hold an EMT-Paramedic certification or Paramedic license issued by the Texas Department of State Health Services;

(3) be employed as a paramedic by a political subdivision of this state;

(4) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration); and

(5) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(d) Eligible Degree or Certificate Program. Each institution of higher education shall identify emergency medical services degree or certificate programs offered by the institution and submit a list of the identified programs to the Coordinating Board. The Coordinating Board shall compile and publish a list of all institutions' identified programs on its website.

(e) Eligible Courses.

(1) An exemption provided under this section applies only to courses pertaining to emergency medical services degree or certificate programs published by the Coordinating Board in accordance with subsection (d) of this section.

(2) An institution shall not apply an exemption to courses that make up the general education core curriculum required for all degrees or to courses that are not fire science-related, even if they are included in the fire science degree or certificate program.

(f) Exceptions. Notwithstanding subsection (b) of this section, an exemption applied under this section does not apply to any amount of tuition the institution:

(1) elects to charge a resident undergraduate student under Texas Education Code, §54.014(a) or (f); or

(2) charges a graduate student in excess of the amount of tuition charged to similarly situated graduate students because the student has a number of semester credit hours of doctoral work in excess of the applicable number provided by Texas Education Code, §61.059(l)(1) or (2).

(g) Distance Education.

(1) Each semester or term, a participating institution may designate up to three eligible courses offered exclusively via distance education as excluded courses.

(2) Notwithstanding subsection (b) of this section, for excluded courses designated under paragraph (1) of this subsection, a participating institution is not required to offer exemptions to students enrolled in the course in excess of 20 percent of the maximum student enrollment designated by the institution for that course.

§13.471. Good Neighbor Program.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.331, Students from Other Nations of the American Hemisphere, more commonly known as the Good Neighbor Program.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Bona Fide Native-born Citizen of an Eligible Country--A person who is a citizen of an eligible country and who was:

(A) Born in that country; or

(B) Born abroad, provided that at least one of the person's parents was a citizen of the eligible country and not permanently residing in a foreign country at the time of birth.

(2) Bona Fide Resident of an Eligible Country--A person who is a citizen of an eligible country, maintains that country as the person's place of home residence, and who intends to return to that country to live immediately after finishing the educational program for which the person is seeking an exemption under this section.

(3) Eligible Country--A politically independent nation, other than Cuba or the United States, located in the Western or American hemisphere.

(c) Eligible Institutions. Institutions of higher education, as defined by §13.1 of this chapter (relating to Definitions) are eligible to participate in the Good Neighbor Program.

(d) Program Officer. Each participating institution shall name the principal international student advisor or another appropriate person to serve as the Good Neighbor Program Officer. The Program Officer shall certify all scholarship applications and activities with respect to the Good Neighbor Program and shall be responsible for all related records and reports.

(e) To be eligible for an exemption under this section, a student must:

(1) be enrolled at a participating institution;

(2) be a bona fide native-born citizen and resident of an eligible country, as the terms are defined in subsection (b) of this section;

(3) have resided in the Western (American) Hemisphere for a period of at least five years;

(4) demonstrate that he or she meets the basic admissions requirements of the nominating institution;

(5) not be a member of the Communist Party;

(6) be recommended for an exemption under this section by the student's institution;

(7) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(8) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(f) Selection Procedures.

(1) Nomination Deadline. Each year, eligible institutions may recommend students to receive exemptions under this program by submitting nominations to the Coordinating Board. Nominations for the upcoming fiscal year must be submitted to the Coordinating Board no later than March 15.

(2) Prioritization. An institution shall assign priority numbers to the students it is nominating for an exemption. The Coordinating Board shall accommodate institutional priorities to the extent allowable under this subsection.

(3) Designated Country. Based on all nominations submitted prior to the deadline, the Coordinating Board will identify a designated country. The designated country will be the Latin American country other than Mexico, as identified by the U.S. Department of State, that received the most nominations for the program for the upcoming fiscal year.

(4) Nomination Review Order. The Coordinating Board will review all nominations assigned as institutions' highest priority students under paragraph (2) of this subsection, then moving to the second highest priority, and so on. Within each priority grouping, the Coordinating Board will review nominations in the order they were submitted to the Coordinating Board.

(5) Allotment Limit. The total number of recipients each year, across all participating institutions, shall not exceed 235. Up to 10 eligible students from each eligible country may be selected, except as provided by paragraphs (7) and (8) of this subsection.

(6) The Coordinating Board will review nominations in the order described by paragraph (4) of this subsection until:

(A) Each eligible country has reached its allotment limit of recipients described by paragraph (5) of this subsection or has no more remaining nominated students; or

(B) 235 total recipients have been selected.

(7) If the review of nominations described by paragraph (6) of this subsection concluded with fewer than 235 total recipients selected, then nominations from the designated country described by paragraph (3) of this subsection will be reviewed in the order in the same review order until:

(A) an additional 35 recipients from the designated country are selected;

(B) the total remaining nominations from the designated country are reviewed; or

(C) 235 total recipients have been selected.

(8) If the review of nominations described by paragraph (7) of this subsection concluded with fewer than 235 total recipients selected, then review of the nominations will continue in the order described by paragraph (4) of this subsection.

(A) In such a case, the first eligible student nominated from each eligible country with remaining nominations will be selected until all eligible countries with remaining nominations have one additional recipient. The process then repeats for an additional student from each eligible country with remaining nominations, and so on.

(B) The process described by subparagraph (A) of this paragraph continues until:

(i) All nominations have been reviewed; or

(ii) 235 total recipients have been selected.

(9) If an institution notifies the Coordinating Board by October 15 of a selected student's failure to use the offered exemption, the Coordinating Board will select the next nomination through the process described in this subsection, prioritizing nominations from the applicable eligible country. Exemptions cancelled after October 15 will not be re-offered.

(10) Under no circumstances shall any special consideration be given to applicants who are related to employees of the Coordinating Board.

(g) Exemption Amount. Subject to §13.465 of this subchapter (relating to Restrictions on Exemptions and Waivers), students selected to receive exemptions through the Good Neighbor Program may be exempted from the payment of tuition for the 12-month period beginning with the fall semester following the students' selection as recipients.

§13.472. Educational Aide Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.363.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Educational Aide--A person who has been employed by a public school district in Texas in a teaching capacity working in the classroom directly with the students for at least one year on a full-time basis. It may include substitute teachers who have been employed by a public school district in Texas for 180 or more full days in a teaching capacity working in the classroom directly with students.

(2) Program--The Educational Aide Exemption Program.

(c) Eligible Institutions.

(1) Eligibility. Any institution of higher education, as defined in §13.1 of this chapter (relating to Definitions), is eligible to participate in the Program.

(2) Participation.

(A) Agreement. Each eligible institution must enter into an agreement with the Board, the terms of which shall be prescribed by the Commissioner, prior to indicating its intent to participate in the program.

(B) Intent to Participate. Subject to subparagraph (A) of this paragraph, to receive an allocation for the forthcoming fiscal year, an eligible institution must indicate its intent to participate in the program in the applicable year in the manner prescribed and by the deadline established by the Coordinating Board.

(3) A participating institution shall offer an exemption under this section to a student meeting the eligibility requirements established in subsection (e) of this section, except that an institution is not required to offer exemptions beyond those funded through appropriations specifically designated for this purpose. An institution may establish criteria by which applicants are prioritized if appropriated funds are insufficient to offer an exemption to all eligible students for a given term.

(4) A participating institution shall use institutional matching funds to cover at least 10 percent of each recipient's exemption.

(d) Institutional Responsibilities. Institutions participating in the Program shall disburse funds in accordance with §22.2 of this title (relating to Timely Disbursement of Funds), retain records in accordance with §22.4 of this title (relating to Records Retention) and comply with the provisions of §22.9 of this title (relating to Institutional Responsibilities) with respect to the Program.

(e) Eligible Students. To be eligible to receive an exemption under this section, a student must:

(1) Submit a completed application for an exemption to the student's institution;

(2) Be a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(3) Have met the definition of Educational Aide established in subsection (b) of this section at some time during the last five years preceding the term or semester for which the student would receive an initial exemption;

(4) Be employed in any capacity by a school district or open-enrollment charter school in Texas during the full term for which the student would receive the exemption;

(5) Show financial need, as defined in §13.460 of this subchapter;

(6) be enrolled at an eligible institution in courses required for teacher certification in one or more subject areas determined by the Commissioner of Education to be experiencing a critical shortage at the public schools of this state;

(7) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions); and

(8) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration).

(f) Notwithstanding subsection (e)(6) of this section, a student who previously received an exemption under this section remain eligible if the student:

(1) is enrolled at an eligible institution in courses required for teacher certification; and

(2) meets the eligibility requirements of subsection (e) of this section other than the requirement in subsection (e)(6) of this section.

(g) Exemption Amount. A student receiving an exemption under this section is exempt from the payment of resident tuition and required fees, other than laboratory and class fees, taken during the relevant term.

(h) Allocations. Allocations are to be determined on an annual basis as follows:

(1) All eligible institutions will be invited annually to participate in the program allocation process, as described by subsection (c)(2)(B) of this section.

(2) The annual appropriation will be divided equally between all participating institutions.

(3) Allocation calculations will be shared with all eligible institutions for comment prior to final posting. Institutions will be given 10 business days, beginning the day of the notice's distribution and excluding state holidays, to confirm their interest in participating in the program.

(i) Exemption from Student Teaching. A person who has not previously received a baccalaureate degree and who receives a baccalaureate degree required for a teaching certificate on the basis of coursework completed while receiving an exemption under this section may not be required to participate in any field experience of internship consisting of student teaching to receive a teaching certificate.

§13.473. Dependent Children of Armed Forces Members Deployed on Combat Duty Exemption.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.2031.

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), in this section, the term "dependent child" means a person who is a stepchild, biological child, or adopted child of a person and is claimed as a dependent for federal income tax purposes in the previous tax year or will be claimed as a dependent for federal income tax purposes for the current year.

(c) Participating Institutions. An institution of higher education, as defined by §13.1 of this chapter (relating to Definitions) shall provide an exemption from the payment of tuition to all eligible students enrolled at the institution if sufficient appropriated funds are available to cover the full costs to the institution for the required exemptions. An institution is required to grant an exemption under this section only to the extent appropriated funds are available for that purpose.

(d) Eligible Students. To be eligible for an exemption under this program, a student must:

(1) submit satisfactory evidence to his or her institution that the student is the dependent child of a member of the Armed Forces of the United States who is:

(A) a Resident of Texas, as defined in §22.1 of this title (relating to Definitions) or entitled to pay resident tuition; and

(B) deployed on active duty for the purpose of engaging in a combative military operation outside the United States;

(2) not be in default on a loan made or guaranteed for educational purposes by the State of Texas;

(3) meet applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration); and

(4) meet the satisfactory academic progress requirements described by §13.463 of this subchapter (relating to Satisfactory Academic Progress) unless granted a hardship waiver by the institution in accordance with §13.464 of this subchapter (relating to Hardship Provisions).

(e) Discontinuation of Eligibility. A student may not receive an exemption from the payment of tuition under this section for more than 150 semester credit hours (or equivalent) under any circumstances.

(f) Impact on Admissions. An institution of higher education may not consider the fact that a person is eligible for an exemption under this section in determining whether to admit the person to any degree or certificate program.

(g) Reimbursement of Foregone Tuition.

(1) If notified by the Coordinating Board that appropriated funds are available, a participating institution may apply to the Coordinating Board for reimbursement for the tuition revenues foregone through exemptions offered under this section.

(2) The Coordinating Board will provide reimbursements to institutions that apply, to the extent to which funds are appropriated for this purpose by the Legislature.

(3) If the Coordinating Board determines at any time during a year that the appropriated funds are insufficient to cover the anticipated cost of foregone tuition for exemptions offered during that year, the Coordinating Board may defer the processing of applications for reimbursement received after that date and provide institutions a prorated share of the available funds as of the end of the fiscal year.

§13.474. Reciprocal Educational Exchange Program.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.231(d) and (e).

(b) Definitions. In addition to the words and terms defined in §13.460 of this subchapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Citizen or Permanent Resident of Another Nation--A citizen or permanent resident of a nation other than the United States who resides in the nation of which he or she is a citizen or permanent resident and who plans to return to that nation to live immediately after finishing his/her program of study in Texas.

(2) Originating Institution--The institution from which a participant is relocating as part of the exchange program.

(3) Participating Nation--A nation other than the United States with institutions which have entered into exchange agreements with one or more institutions of higher education in Texas under the provisions of this subchapter.

(4) Receiving Institution--The institution in which a participant enrolls or studies as part of the program.

(c) Eligible Institutions. To be eligible to participate in the program, an institution must:

(1) designate a Program Officer who will be responsible for all transactions relating to the program; and

(2) be either:

(A) a public or private degree-granting institution of higher education located in a nation other than the United States whose programs have recognition of official validity, or

(B) an institution of higher education, as defined in §13.1 of this chapter (relating to Definitions) in Texas.

(d) Eligible Students. To be eligible to participate in the program, a student must:

(1) have been enrolled for at least one semester at the originating institution;

(2) be either:

(A) a citizen or permanent resident of a participating nation; or

(B) enrolled in an institution of higher education in Texas;

(3) be nominated by his or her originating institution;

(4) meet the admissions requirements and any other restrictive enrollment criteria of the receiving institution;

(5) be enrolled or studying on a full-time basis at the receiving institution; and

(6) have not participated in the program for more than 12 months.

(e) Tuition Rate.

(1) If a reciprocal exchange program requires a tuition payment, the tuition rates paid by participants will be defined by the agreements entered into by the participating institutions and will be either the resident tuition rate at the institution of higher education in Texas or the rate normally charged nationals or residents of other nations by their institutions.

(2) The method of charging and collecting tuition is to be negotiated between the two institutions involved in the exchange. The tuition rate and payment may be any of the following methods:

(A) pay the relevant tuition rate of receiving institution, paid to the receiving institution;

(B) pay the relevant tuition rate of the originating institution, paid to the receiving institution; or

(C) pay the relevant tuition rate of the originating institution, paid to the originating institution.

(3) A former participant no longer participating in the program who continues to be enrolled at the receiving institution shall be expected to pay the tuition rate charged other nonresident students, beginning with the first enrollment period after the participant is no longer participating in the program.

(f) Reciprocity. The number of units of instruction exchanged would ideally be equal in any given year. If balance is not attained in any one year and more students from other nations are participating in the program than are students from Texas, parity is to be established within a five-year period.

(g) Assurances. Each participating institution must maintain records in the appropriate office that include:

(1) proof of each participant's eligibility; and

(2) formally executed exchange agreements with each other exchange partner institution.

(h) Formula Funding. When an exchange takes place under this program, an institution of higher education in Texas may request formula funding for the hours taken by foreign students attending classes in Texas. It may not request formula funding for their students who go abroad under this program.

(i) Reporting.

(1) Each participating institution shall provide an annual prior-year program report to the Coordinating Board on a form provided by, and by a deadline specified by, the Coordinating Board. The report shall include such things as the number of students who have participated in the exchange program and the names and locations of the institutions with which the exchanges have taken place. Each institution is to define, demonstrate, and report the basis on which their student exchanges are reciprocal.

(2) A nonresident student that is charged resident tuition at an institution of higher education in Texas under this section should be reported as having received a waiver.

§13.475. Border County Waiver.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.231(b), (c), and (e).

(b) Participating Institutions. An institution shall provide eligible students a waiver under this program if the institution is one of the following:

(1) a general academic teaching institution, as defined in §13.1 of this chapter (relating to Definitions) or a component of the Texas State Technical College system located in a county that borders Mexico;

(2) Texas A&M University - Kingsville;

(3) Texas A&M University - Corpus Christi; or

(4) The University of Texas at San Antonio.

(c) Eligible Students. To be eligible for a waiver under this section, a student must:

(1) be a citizen or permanent resident of Mexico, who resides in, and plans to return to, Mexico immediately after finishing the student's educational program;

(2) meet the admissions requirements and any restrictive enrollment criteria of the participating institution in which the student enrolls; and

(3) show financial need, as defined in §13.460 of this subchapter (relating to Definitions).

(d) Notwithstanding subsections (b) and (c)(2) of this section, a student is eligible to receive a waiver under this section if the student:

(1) is enrolled in either:

(A) lower-division courses at a public junior college, as defined in §13.1 of this chapter, located in a county that borders with a partnership agreement pursuant to Texas Education Code, chapter 51, subchapter N, with a general academic teaching institution in the same county; or

(B) courses that are part of a graduate degree program in public health and are conducted in a county that borders Mexico;

(2) meets the admissions requirements of the institution at which the student is enrolled; and

(3) meets all other eligibility criteria described by subsection (c) of this section.

(e) Tuition Rate. A participating institution shall charge an eligible student enrolled at the institution a tuition rate equal to the resident tuition rate.

(f) There is no limit to the number of eligible students a participating institution may enroll.

§13.476. Citizens of Mexico Waiver Pilot Program.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.231(c).

(b) Eligible Institutions. Any general academic teaching institution or public technical institute, as the terms are defined in §13.1 of this chapter (relating to Definitions), except the institutions described by §13.475(d) of this subchapter (relating to Border County Waiver), is eligible to participate in the pilot program.

(c) Eligible Students. To be eligible to participate in the pilot program under this section, a student must:

(1) be a citizen or permanent resident of Mexico, who resides in, and plans to return to, Mexico immediately after finishing the student's educational program;

(2) meet the admission requirements and any restrictive enrollment criteria of the participating institution in which he or she enrolls; and

(3) show financial need, as defined in §13.460 of this subchapter (relating to Definitions).

(d) Limit. Each year, a participating institution may offer waivers to two eligible students per thousand students of the institution's overall enrollment. Institutions with fewer than 5,000 students may offer up to ten waivers per year to eligible students.

(e) Tuition Rate. Subject to the limits described in subsection (d) of this section, a participating institution shall charge an eligible student enrolled at the institution a tuition rate equal to the resident tuition rate.

§13.477. Texas National Student Exchange Program Waiver.

(a) Authority. Authority for this section is provided in the Texas Education Code, §51.930.

(b) Eligible Institution. An institution may offer a waiver under this section to an eligible student if the institution is:

(1) a general academic teaching institution, as defined by §13.1 of this chapter (relating to Definitions); and

(2) under contract with the student exchange program administered by the National Student Exchange.

(c) Eligible Students. A student is eligible to receive a wavier under this section if the student:

(1) is not a Resident of Texas, as defined in §13.460 of this subchapter (relating to Definitions);

(2) is enrolled as an undergraduate student at an eligible institution as part of the student exchange program administered by the National Student Exchange; and

(3) meets applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration).

(d) Limitation. A student may only receive a waiver under this section for one year.

(e) Tuition Rate. A student receiving a waiver under this section shall pay the resident tuition rate.

§13.478. Competitive Scholarships Waiver.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.213.

(b) Eligible Institutions.

(1) Any institution of higher education, as defined in §13.1 of this chapter (relating to Definitions), may offer a waiver under the provisions of this section.

(2) A waiver received by a student under this section applies only to tuition paid to the institution that awarded the enabling scholarship unless the student is simultaneously enrolled in two or more institutions of higher education under a program offered jointly by the institutions under a partnership agreement, in which case the student may also be offered a waiver at the other institution(s).

(3) The total number of persons at an eligible institution receiving a waiver under this section in a given semester shall not exceed 5 percent of the total number of students enrolled at the institution in the same semester of the prior year.

(c) Eligible Students. A student enrolled at an eligible institution may be offered a waiver under this section if the student:

(1) is not a Resident of Texas, as defined by §13.460 of this subchapter (relating to Definitions);

(2) received an eligible competitive scholarship, as described in subsection (d) of this section; and

(3) meets applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration).

(d) Eligible Competitive Scholarship. An otherwise eligible student may be offered a waiver under this section if the student receives a scholarship:

(1) of at least $1,000 for the 12-month academic year, regardless of how the scholarship funds are disbursed;

(2) awarded by a scholarship committee established and authorized by the institution to grant scholarships using institutional funds that permit the waiver authorized in this section;

(3) awarded according to criteria published and available to the public in advance of any application deadline;

(4) offered to both resident and nonresident students.

(e) An otherwise eligible student may be offered a waiver under this section for any semester or term in an academic year in which the student receives an eligible competitive scholarship.

(f) Tuition Rate. A student receiving a waiver under this section shall pay the resident tuition rate.

(g) A student whose eligible competitive scholarship is terminated prior to the end of a semester or term for which it was awarded such that the student no longer meets the criteria in subsection (c) of

this section shall pay nonresident tuition for any semester following the termination of the scholarship.

§13.479. Economic Development and Diversification Waiver.

(a) Authority. Authority for this section is provided in the Texas Education Code, §54.222.

(b) Eligible Institutions. An institution of higher education, as defined by §13.1 of this chapter (relating to Definitions) shall offer a waiver to eligible students under the provisions of this section.

(c) Eligible Students. A student is eligible for a waiver under this section if the student:

(1) is not a Resident of Texas, as defined by §13.460 of this subchapter (relating to Definitions);

(2) meets applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(3) has relocated to Texas because of the student's or an eligible family member's employment by a business or organization that became established in this state as part of a state economic development and diversification program authorized by law not earlier than five years prior to the student's enrollment date; and

(4) files a letter of intent with the student's institution declaring the student's intention to establish residency in Texas.

(d) Eligible Family Member. A person is an eligible family member for the purposes of paragraph (3) of this subsection if the person:

(1) is 18 years of age or older;

(2) resides in the student's household; and

(3) is either:

(A) the student's parent or legal guardian; or

(B) the student's spouse.

(e) The Coordinating Board shall publish on its website:

(1) A list of qualifying businesses or organizations, by which employment of the student or an eligible family member of the student may qualify the student for a waiver under this section; and

(2) The date associated with each business listed under paragraph (1) of this subsection by which an otherwise eligible student must be enrolled to receive a waiver under this section.

(f) Tuition Rate. A student receiving a waiver under this section shall pay the resident tuition rate.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6365

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CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 22: Subchapter C, §§22.42 and 22.44 - 22.55, Hinson-Hazlewood College Student Loan Program; Subchapter E, §§22.84, 22.85, 22.92, 22.93, 22.95, and 22.96, Hinson-Hazlewood College Student Loan Program: All Loans Made Before Fall Semester, 1971, Not Subject to the Federally Insured Student Loan Program; Subchapter I, §§22.171 - 22.174, Texas Armed Services Scholarship Program; Subchapter J, §§22.175 - 22.189, Future Occupations & Reskilling Workforce Advancement to Reach Demand (FORWARD) Loan Program; Subchapter Q, §§22.329, 22.330, and 22.337 - 22.342, Texas B-On-Time Loan Program; Subchapter X, §§22.625, 22.626, 22.631, and 22.633 - 22.641, Teach for Texas Conditional Grant Program; and Subchapter Y, §§22.663, 22.664, 22.668, and 22.670 - 22.677, Teach for Texas Alternative Certification Conditional Grant Program. Specifically, the repeal will allow the relocation of the rules relating to the Coordinating Board's student loan programs to the newly created Chapter 24, Student Loan Programs.

The Coordinating Board is generally authorized by Texas Education Code, Chapter 52, Subchapter C (Student Loans), and specifically §§56.0092 (B-On-Time), 56.3575 (Teach for Texas), and 61.9774 (Armed Services Scholarship), to adopt rules relating to the provisions of these sections.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved rule clarity and program administration through separation and consolidation of rules relating to student loan programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

SUBCHAPTER C. HINSON-HAZLEWOOD COLLEGE STUDENT LOAN PROGRAM

19 TAC §§22.42, 22.44 - 22.55

The repeal is proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to student loan programs.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter C, §§22.42 and 22.44 - 22.55.

§22.42. Authority and Purpose.
§22.44. Definitions.
§22.45. Eligibility of Institutions.
§22.46. Eligibility of Students.
§22.47. Requirements of Cosigner/Accommodation Party.
§22.48. Notice to Borrowers.
§22.49. Amount of Loan.
§22.50. Loan Origination Fees.
§22.51. Loan Interest.
§22.52. Disbursements to Students.
§22.53. Repayment of Loans.
§22.54. Deceased or Disabled Borrowers and Cosigners.
§22.55. Enforcement of Collection.

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

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SUBCHAPTER E. HINSON-HAZLEWOOD COLLEGE STUDENT LOAN PROGRAM: ALL LOANS MADE BEFORE FALL SEMESTER, 1971, NOT SUBJECT TO THE FEDERALLY INSURED STUDENT LOAN PROGRAM

19 TAC §§22.84, 22.85, 22.92, 22.93, 22.95, 22.96

The repeal is proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to student loan programs.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter E, §§22.84, 22.85, 22.92, 22.93, 22.95, and 22.96.

§22.84. Administration.
§22.85. Delegation of Powers and Duties.
§22.92. Term of Loans.
§22.93. Loan Interest.
§22.95. Repayment of Loans.
§22.96. Enforcement of Collection.

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SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §§22.171 - 22.174

The repeal is proposed under Texas Education Code, Section 61.9774, which provides the Coordinating Board with the authority to adopt rules to administer the Texas Armed Services Scholarship Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I, §§22.171 - 22.174.

§22.171. Repayment of Loans.
§22.172. Enforcement of Collection.
§22.173. Exemption and Cancellation.
§22.174. Provisions for Death and Disability.

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

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SUBCHAPTER J. FUTURE OCCUPATIONS & RESKILLING WORKFORCE ADVANCEMENT TO REACH DEMAND (FORWARD) LOAN PROGRAM

19 TAC §§22.175 - 22.189

The repeal is proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to student loan programs.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter J, §§22.175 - 22.189.

§22.175. Authority and Purpose.
§22.176. Definitions.
§22.177. Eligible High-Demand Credentials.
§22.178. Eligibility of Institutions.

§22.179. Eligibility of Students.
§22.180. Discontinuation of Eligibility.
§22.181. Hardship Provisions.
§22.182. Requirements of Cosigner.
§22.183. Amount of Loan.
§22.184. Loan Interest.
§22.185. Disbursements to Students.
§22.186. Repayment of Loans.
§22.187. Deceased or Disabled Borrowers and Cosigners.
§22.188. Enforcement of Collection.
§22.189. Delegation.

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

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SUBCHAPTER Q. TEXAS B-ON-TIME LOAN PROGRAM

19 TAC §§22.329, 22.330, 22.337 - 22.342

The repeal is proposed under Texas Education Code, Section 56.0092, which provides the Coordinating Board with the authority to adopt rules relating to the Texas B-On-Time Loan Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter Q, §§22.329, 22.330, and 22.337 -22.342.

§22.329. Authority and Purpose.
§22.330. Definitions.
§22.337. Forgiveness of Loans.
§22.338. Loan Interest.
§22.339. Repayment of Loans.
§22.340. Deceased or Disabled Borrowers.
§22.341. Enforcement of Collection.
§22.342. Appropriation of Funds from Former B-On-Time Student Loan Account.

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

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SUBCHAPTER X. TEACH FOR TEXAS CONDITIONAL GRANT PROGRAM

19 TAC §§22.625, 22.626, 22.631, 22.633 - 22.641

The repeal is proposed under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules relating to the Teach for Texas program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter X, §§22.625, 22.626, 22.631, and 22.633 - 22.641.

§22.625. Authority.
§22.626. Definitions.
§22.631. Hardship and Other Good Cause.
§22.633. Eighteen-Month Period Before Employment.
§22.634. Service Obligation Period.
§22.635. Conditions of Grant.
§22.636. Loan Interest.
§22.637. Repayment of Loans.
§22.638. Educational Deferments.
§22.639. Forbearance.
§22.640. Enforcement of Collection.
§22.641. Provisions for Disability and Death.

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

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SUBCHAPTER Y. TEACH FOR TEXAS ALTERNATIVE CERTIFICATION CONDITIONAL GRANT PROGRAM

19 TAC §§22.663, 22.664, 22.668, 22.670 - 22.677

The repeal is proposed under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules relating to the Teach for Texas program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter Y, §§22.663, 22.664, 22.668, and 22.670 - 22.677.

§22.663. Authority.
§22.664. Definitions.
§22.668. Hardship and Other Good Cause.
§22.670. Eighteen-Month Period Before Employment.
§22.671. Service Obligation Period.
§22.672. Conditions of Grant.
§22.673. Loan Interest.
§22.674. Repayment of Loans.
§22.675. Forbearance.

§22.676. Enforcement of Collection.

§22.677. Provisions for Disability and Death.

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

Filed with the Office of the Secretary of State on August 14, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 427-6365

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SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §§22.163, 22.165 - 22.170

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter I, §§22.163 and 22.165 - 22.170, concerning the Texas Armed Services Scholarship Program (Program). Specifically, this amendment will reflect and implement changes to scholarship amounts, appointments, program eligibility, and Program administration made by House Bill (H.B.) 300, 89th Texas Legislature, Regular Session, which became effective June 20, 2025.

The Coordinating Board is authorized by Texas Education Code (TEC), §61.9774, to adopt rules as necessary to administer the Program.

Rule 22.163, Authority and Purpose, is amended to remove the phrase "complete a baccalaureate degree" from the Program's purpose statement. The provisions of H.B. 300 amending TEC, §§61.9772(a) and 61.9773(a), now allow graduate students to qualify to receive a scholarship, thus expanding the Program's purpose beyond baccalaureate students.

Rule 22.165, Scholarship Amount, is amended to reflect updated annual scholarship amounts. Each year, the Coordinating Board will calculate the average cost of attendance at institutions of higher education across the state, and the maximum scholarship will be the greater of that figure or $30,000. Current subsection (b) is eliminated to align with statutory changes to TEC, §61.9771(b), and is replaced by a clarification that a student's scholarship may not exceed cost of attendance at the student's institution.

Rule 22.166, Appointment by Elected Officials, is amended to reflect the revised process for appointment included in H.B. 300's amendment of TEC, §61.9772. The amended rule implements the September 30 appointment deadline by all elected officials authorized to appoint students for the scholarship, with any remaining vacancies to be filled by the Lieutenant Governor (for senators) or the Speaker of the House (for representatives) or their designee(s). Current subsection (c) is relocated to §22.167, reflecting that the student's institution is better equipped to verify the student's academic qualifications for the scholarship than elected officials.

Rule 22.167, Eligible Students, is amended to implement the newly expanded eligibility for graduate students and additional pathways to establish eligibility and to allow for verification by the student's institution that an appointed student is academically qualified to receive a scholarship. Subsection (a)(2) provides for three pathways to eligibility: current enrollment in Reserve Officers' Training Corps (ROTC) or similar undergraduate officer commissioning program, prior completion of ROTC or similar as an undergraduate (for graduate students), and acceptance into the Texas State Guard officer commissioning program (added by H.B. 300, see amended TEC, §61.9772(a)(1)(C)). Subsection (b) is added to reflect updating academic criteria for an appointed student to receive an initial scholarship: for first-year undergraduates, a 3.0 or higher high school GPA or meeting the college readiness standard established in Coordinating Board rules; for undergraduates in their second or later years, a 3.0 or higher GPA in either high school or their postsecondary coursework or meeting the college readiness standard established in Coordinating Board rules; and for graduate students, an undergraduate GPA of 3.0 or higher.

Rule 22.168, Promissory Note, is amended to make corresponding changes to the promissory note for completion of the various eligibility pathways established in §22.167(a).

Rule 22.169, Discontinuation of Eligibility, is amended to reflect the simplified eligibility limitations established by H.B. 300: a student may receive a scholarship under the programs for no more than four years, regardless of degree program or credit hours completed. See TEC, §61.9775.

Rule 22.170, Conversion of the Scholarship to a Loan, is amended to align the monitoring period for scholarship recipients who enter the armed forces and those who enter one of the state guards. Subsection (a)(3)(A) is amended to allow for honorable discharge prior to completion of a four-year commitment as a means of fulfilling the recipient's contract with the Coordinating Board, and subsection (b) is added to reflect that a recipient who becomes a commissioned officer in the armed services is considered to have fulfilled a contract to serve, for the purposes of the program, after four years of service or honorable discharge. This change aligns the service monitoring for all recipients and precludes situations in which some recipients enter contracts to serve of indeterminate length and cannot be considered to have fulfilled their contracts for an extended period. Current subsection (b) is amended to substitute a reference to baccalaureate degree to the student's intended degree to conform with expanded eligibility for the program.

Subsection (g) is added to provide for circumstances, such as physical inability or other extraordinary circumstances, in which a student's scholarship would not convert to a loan. The extraordinary circumstances provision reflects statutory changes from H.B. 300, amending Education Code, §61.9773(b), and this language mirrors a similar provision in the new Chapter 24, Subchapter F, which provides for the cancellation of already-converted loans for similar reasons. Subsection (h) is added to note that scholarships converted to loans are subject to the applicable requirements in the newly created Chapter 24, relating to Student Loan Programs.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses

or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the expanded access to, and improved administration of, the program. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, §61.9774, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Texas Armed Services Scholarship Program.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.163. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, chapter 61, subchapter FF, Texas Armed Services Scholarship Program. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§61.9771 - 61.9776.

(b) Purpose. The purpose of the Texas Armed Services Scholarship Program is to encourage students to [~~complete a baccalaureate degree and~~] become members of the Texas Army National Guard, the Texas Air National Guard, the Texas State Guard, the United States Coast Guard, or the United States Merchant Marine, or to become commissioned officers in any branch of the armed services of the United States.

§22.165. Scholarship Amount.

(a) The amount of a scholarship in an academic year shall be published annually by the Coordinating Board and shall not exceed the greater of:

(1) $30,000; or

(2) an amount equal to the average cost of attendance at an institution of higher education in this state, as calculated by the Coordinating Board. [~~$15,000.~~]

(b) Notwithstanding subsection (a) of this section, a student may not receive a scholarship under this subchapter in an amount that exceeds the cost of attendance at the student's institution.

[~~(b) A scholarship offered to a student under this subchapter shall be reduced for an academic year by the amount by which the full amount of the scholarship plus the total amount to be paid to the student for being under contract with one of the branches of the armed services of the United States exceeds the student's cost of attendance for that academic year at the institution of higher education or private or independent institution of higher education in which the student is enrolled.~~]

§22.166. Appointment by Elected Officials.

(a) Each year the governor and the lieutenant governor shall [~~may~~] each appoint two students and two alternates, and each state senator and each state representative shall [~~may~~] appoint one student and one alternate to receive an initial scholarship.

(b) State senators or state representatives shall make appointments under subsection (a) of this section no later than September 30 of each year.

(c) If the Coordinating Board has not received all such appointments by the September 30 deadline, the Coordinating Board will notify the lieutenant governor and the speaker of the house of representatives and request additional appointments.

[~~(b) Appointments must be reported to the Coordinating Board by the deadline established by the Commissioner.~~]

[~~(c) Appointment Requirements. A selected student must meet two of the following four academic criteria at the time of application:~~]

[~~(1) Is on track to graduate high school or graduated with the Distinguished Achievement Program (DAP), the distinguished level of achievement under the Foundation High School program, or the International Baccalaureate Program (IB);~~]

[~~(2) Has a current high school GPA of 3.0 or higher or graduated with a high school GPA of 3.0 or higher;~~]

[~~(3) Achieved a college readiness score on the SAT or ACT;~~]

[~~(4) Is currently ranked in the top one-third of the prospective high school graduating class or graduated in the top one-third of the high school graduating class.~~]

(d) If a student appointed to receive a scholarship is determined to be ineligible to receive an initial scholarship [~~fails to initially meet eligibility or fails to meet the requirements to initially receive the scholarship~~], the Coordinating Board must notify the alternate on file of his or her nomination.

(e) If a recipient's scholarship converts to a loan prior to graduation, beginning with the academic year following the determination, the appointing official may appoint another eligible student to receive any available funds designated for the recipient who no longer meets the requirements for the scholarship.

§22.167. Eligible Students.

(a) To receive a scholarship, an appointed student must:

(1) Be enrolled in an institution of higher education or a private or independent institution of higher education, as the terms are

defined in §22.1 of this chapter (relating to Definitions), as certified by that institution;

(2) Be certified by the student's institution that the student:

(A) Is enrolled [~~Enroll~~] in and [~~be~~] a member in good standing of a Reserve Officers' Training Corps (ROTC) program or another undergraduate officer commissioning program at the student's institution [~~while enrolled in the institution of higher education or private or independent institution of higher education, as certified by that institution~~];

(B) Completed an ROTC program or another undergraduate officer commissioning program while the student was enrolled as an undergraduate; or

(C) Has been accepted into the officer commissioning program for the Texas State Guard, as defined by Texas Government Code, §437.001;

(3) Enter into a written agreement with the Coordinating Board, set forth in §22.168 of this subchapter (relating to Promissory Note); and

(4) Maintain the satisfactory academic progress requirements as indicated by the financial aid office at the recipient's institution of higher education or private or independent institution of higher education.

(b) In addition to the requirements described by subsection (a) of this section, to receive an initial scholarship, the student must meet the following academic criteria.

(1) For an undergraduate student receiving the scholarship in the student's first year of study at the institution, the student must:

(A) Have a high school grade point average of 3.0 or higher; or

(B) Meet the college readiness standard established by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards) or meet the standard for exemption under §4.54 of this title (relating to Exemption).

(2) For an undergraduate student receiving the scholarship in a year after the student's first year of study at the institution, the student must:

(A) Have a grade point average of 3.0 or higher on the student's postsecondary coursework;

(B) Have a high school grade point average of 3.0 or higher; or

(C) Meet the college readiness standard established by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards) or meet the standard for exemption under §4.54 of this title (relating to Exemption).

(3) For a graduate student nominated to receive the scholarship, the student must have a grade point average of 3.0 or higher on the student's undergraduate coursework.

§22.168. Promissory Note.

(a) The Coordinating Board shall require a recipient to sign a promissory note acknowledging the conditional nature of the scholarship and promising to repay the amount of the scholarship plus applicable interest, late charges, and any collection costs, including attorneys' fees, if the recipient fails to meet certain conditions of the scholarship, set forth in §22.170 of this subchapter (Conversion of the Scholarship to a Loan).

(b) Recipients agree to:

(1) Complete, or submit documentation demonstrating prior completion of:

(A) one year of ROTC training for each year that the student receives a scholarship, or the equivalent of one year of ROTC training if the institution of higher education awards ROTC credit for prior service in any branch of the U.S. Armed Services or the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine;[~~, or~~]

(B) Complete, or submit documentation demonstrating prior completion of, another undergraduate officer commissioning program; or

(C) Submit documentation that the student has been accepted into the officer commissioning program for the Texas State Guard, as defined by Texas Government Code, §437.001.

(2) Graduate no later than six years after the date the student first enrolls in an institution of higher education after having received a high school diploma or a General Educational Diploma or its equivalent;

(3) After graduation, enter into and provide the Coordinating Board with verification of:

(A) A four-year commitment to be a member of the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine; or

(B) A contract to serve as a commissioned officer in any branch of the armed services of the United States;

(4) Meet the physical examination requirements and all other prescreening requirements of the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine, or the branch of the armed services with which the student enters into a contract.

§22.169. Discontinuation of Eligibility.

[~~(a)~~] A student may receive a scholarship for no more than four academic years [~~student's eligibility is limited to the six years after the date the student first enrolls in an institution of higher education or private or independent institution of higher education~~].

[~~(b) Notwithstanding subsection (a), a student may not receive a scholarship after having earned a baccalaureate degree or a cumulative total of 150 credit hours, including transferred hours, as verified by the student's institution of higher education or private or independent institution of higher education.~~]

§22.170. Conversion of the Scholarship to a Loan.

(a) A scholarship will become a loan if the recipient:

(1) Fails to maintain satisfactory academic progress as described in §22.167 of this subchapter (relating to Eligible Students);

(2) Withdraws from the scholarship program, as indicated through withdrawal or removal from the institution of higher education or private or independent institution of higher education or that institution's ROTC program or other undergraduate officer commissioning program, without subsequent enrollment in another institution of higher education or private or independent institution of higher education and that subsequent institution's ROTC program or other undergraduate officer commissioning program; or

(3) Fails to fulfill one of the following:

(A) a four-year commitment or honorable discharge as [~~to be~~] a member of the Texas Army National Guard, Texas Air Na-

tional Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine; or

(B) [~~the minimum active service requirement included in~~] a contract to serve as a commissioned officer in any branch of the armed services of the United States[~~; honorable discharge is considered demonstration of fulfilling the minimum active service requirement~~].

(b) For the purposes of subsection (a)(3)(B) of this section, a recipient is considered to have fulfilled a contract to serve after four years of service or upon honorable discharge.

(c) [~~(b)~~] A scholarship converts to a loan if documentation of the contract or commitment outlined in subsection (a)(3) of this section is not submitted to the Coordinating Board within twelve months of graduation with the student's intended [~~a baccalaureate~~] degree while receiving a scholarship under this subchapter. Subsequent filing of this documentation will revert the loan back to a scholarship.

(d) [~~(c)~~] If a recipient's scholarship converts to a loan, the recipient cannot regain eligibility for the Scholarship in any subsequent academic year.

(e) [~~(d)~~] If a recipient requires a temporary leave of absence from the institution of higher education, private or independent institution of higher education, and/or the ROTC program or another undergraduate officer commissioning program for personal reasons or to provide service for the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine for fewer than twelve months, the Coordinating Board may agree to not convert the scholarship to a loan during that time.

(f) [~~(e)~~] If a recipient is required to provide more than twelve months of service in the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine as a result of a national emergency, the Coordinating Board shall grant that recipient additional time to meet the graduation and service requirements specified in the scholarship agreement.

(g) Notwithstanding subsection (a) of this section, a scholarship does not convert to a loan if the recipient is unable to meet the obligations of the agreement solely as a result of:

(1) a physical inability, subject to appropriate verification to the satisfaction of the Coordinating Board; or

(2) an exceptional circumstance beyond the recipient's control, as determined by the Commissioner.

(h) Scholarships that convert to loans under this section are subject to the applicable requirements of chapter 24 of this title (relating to Student Loan Servicing).

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

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General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6365

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CHAPTER 23. EDUCATION LOAN REPAYMENT PROGRAMS
SUBCHAPTER D. MENTAL HEALTH PROFESSIONALS LOAN REPAYMENT ASSISTANCE PROGRAM

19 TAC §§23.94, 23.96, 23.97, 23.100 - 23.103

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter D, §§23.94, 23.96, 23.97, and 23.100 - 23.102, and new §23.103, concerning the Mental Health Professionals Loan Repayment Assistance Program. Specifically, the amendments and new section will amend definitions, eligibility criteria, and program limitations to align with statutory changes made by Senate Bill (SB) 646, 89th Texas Legislature, Regular Session. The Coordinating Board is authorized by Texas Education Code (TEC), §61.608, to adopt rules as necessary to administer the program.

Rule 23.94, Definitions, is amended by adding a new definition for "public school," which includes open-enrollment charter schools and aligns with definitions of that term in other loan repayment assistance programs. The definition of "service period" is amended to eliminate a specific reference to school psychologists, conforming to a legislative change that also made public schools a qualifying practice venue for any eligible profession. Both changes are necessitated by SB 646.

Rule 23.96, Applicant Eligibility, is amended to add four new eligible professions, as included in SB 646, in subsection (a)(3). Public schools are added as a qualifying practice venue in subsection (a)(4)(D), and current subsection (b) is eliminated as unnecessary after the change. A new subsection (b) is added to provide for limited additional eligibility for a fourth and fifth service period, as allowed in TEC, §61.607(b-1)(3), as added by SB 646. The subsection further clarifies that these providers are not considered renewal applicants for the purposes of prioritization in the following section.

Rule 23.97, Applicant Ranking Priorities, is amended to eliminate the de-prioritization of family and marriage therapists, conforming to the repeal of its corresponding statutory provision. Applications from providers practicing in public schools are added as subsection (b)(5), and applications from providers using the new, extended eligibility for a fourth and fifth service period are added as subsection (b)(7). These revisions are necessitated by the repeal of TEC, §61.604(e), in Section 6 of SB 646.

Rule 23.100, Amount of Repayment Assistance, is amended by adding two one-time bonus payments, both created by SB 646 in TEC, §61.607(b-1). Subsection (d) allows for a one-time increase, subject to other limitations, of $5,000 to an award for providers whose employers certify their fluency is a language of need for their profession, as published by the Coordinating Board. Subsection (e) allows for a one-time, $10,000 increase for providers practicing in counties with populations of fewer than 150,000 persons. Subsection (f) provides that the persons qualifying for extended eligibility into the fourth and fifth service periods are eligible for up to $15,000 per service period, subject to other limitations.

Rule 23.101, Limitations, is amended to update maximum total assistance amounts for various professions, conforming with changes made by SB 646. Paragraph (4) is updated to align with TEC, §61.607(b-2), added by SB 646, which clarifies that a

provider's total amount of assistance under the program (including one-time bonus payments and the extended eligibility provisions) cannot exceed the applicable maximum total assistance amount for the provider's profession, plus 10 percent.

Rule 23.102, Provisions Specific to Mental Health Professionals Who Established Eligibility for the Program Before September 1, 2023, is amended to update a citation in subsection (c) to conform with other rule amendments.

Rule 23.103, Provisions Specific to Mental Health Professionals Who Established Eligibility for the Program On or After September 1, 2023 and Before September 1, 2025, is created to provide for the implementation of SB 646. Many of the changes made in that legislation- notably, to eligibility and maximum total assistance amounts - apply to persons who establish eligibility after September 1, 2025, necessitating the preservation of applicable rule provisions as they existed for persons who established eligibility for the program before that date until they have exhausted their eligibility.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the expanded access to, and improved administration of, the program. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Education Code, Section 61.608, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the program.

The proposed amendment and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.94. Definitions.

In addition to the words and terms defined in §23.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) CHIP--The Children's Health Insurance Program, authorized by the Texas Health and Safety Code, Chapter 62.

(2) Community-Based Mental Health Services--The services found under the Texas Health and Safety Code, Chapter 534, Subchapter B.

(3) Full-time Service--Employed or contracted full-time (at least 32 hours per week for providers participating only in the state-funded program, or at least 40 hours per week for providers participating in both the state funded program and the SLRP) by an agency or facility for the primary purpose of providing direct mental health services.

(4) Medicaid--The medical assistance program authorized by the Texas Human Resources Code, Chapter 32.

(5) MHPSAs--Mental Health Professional Shortage Areas (MHPSAs) are designated by the U.S. Department of Health and Human Services (HHS) as having shortages of mental health providers and may be geographic (a county or service area), demographic (low income population), or institutional (comprehensive health center, federally qualified health center, or other public facility). Designations meet the requirements of Sec. 332 of the Public Health Service Act, 90 Stat. 2270-2272 (42 U.S.C. 254e).

(6) Program--Mental Health Professionals Loan Repayment Assistance Program.

(7) Psychiatrist--A licensed physician who is a graduate of an accredited psychiatric residency training program.

(8) Public school--A school in a Texas school district or a public charter school authorized to operate under Texas Education Code, chapter 12.

(9) [~~(8)~~] Service Period--A period of:

(A) twelve (12) consecutive months qualifying a mental health professional for loan repayment assistance; or

(B) for a mental health professional employed by a public school [~~described by §23.96(a)(3)(F) of this subchapter (relating to Applicant Eligibility)~~], at least nine (9) months of a 12-month academic year qualifying the professional for loan repayment assistance.

(10) [~~(9)~~] SLRP--A grant provided by the Health Resources and Services Administration to assist states in operating their own State Loan Repayment Program (SLRP) for primary care providers working in Health Professional Shortage Areas (HPSA).

(11) [~~(10)~~] State Hospital--Facilities found under the Texas Health and Safety Code, §552.0011.

§23.96. Applicant Eligibility.

(a) To be eligible to receive loan repayment assistance, an applicant must:

(1) submit a completed application to the Coordinating Board by the established deadline, which will be posted on the program web page;

(2) be a U.S. citizen or a Legal Permanent Resident and have no license restrictions;

(3) currently be employed as one of the following eligible practice specialties:

(A) a psychiatrist;

(B) a psychologist, as defined by §501.002, Texas Occupations Code;

(C) a licensed professional counselor, as defined by §503.002, Texas Occupations Code;

(D) an advanced practice registered nurse, as defined by §301.152, Texas Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing;

(E) a licensed clinical social worker, as defined by §505.002, Texas Occupations Code;

(F) a licensed specialist in school psychology, as defined by §501.002, Texas Occupations Code;

(G) a licensed chemical dependency counselor, as defined by §504.001, Texas Occupations Code; [~~or~~]

(H) a licensed marriage and family therapist, as defined by §502.002, Texas Occupations Code; [~~and~~]

(I) a licensed master social worker, as defined by §505.002, Texas Occupations Code;

(J) a licensed professional counselor associate, as indicated by holding a licensed professional counselor associate license issued by the Texas State Board of Examiners of Professional Counselors;

(K) a licensed marriage and family therapist associate, as defined by §502.002, Texas Occupations Code; or

(L) a school counselor certified under Texas Education Code, chapter 21, subchapter B, who has earned at least a master's degree relating to counseling from any public or accredited private institution of higher education; and

(4) have completed one, two, or three consecutive service periods:

(A) in an MHPSA, providing direct patient care to:

(i) Medicaid enrollees;

(ii) CHIP enrollees, if the practice serves children;

(iii) persons in a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor; or

(iv) persons in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor;

(B) in a state hospital, providing mental health services to patients; [~~or~~]

(C) providing mental health services to individuals receiving community-based mental health services from a local mental health authority, as defined in Texas Health and Safety Code, §531.002; or

(D) students enrolled in a public school.

(b) Notwithstanding the number of consecutive service periods that qualify an applicant for eligibility described in subsection (a)(4) of this section, an otherwise eligible applicant who receives repayment assistance under this subchapter for three consecutive service periods is eligible to receive repayment assistance for a fourth and fifth consecutive service period in an amount described by §23.100(f) of this subchapter (relating to Amount of Repayment Assistance) and subject to the limitations established in §23.101 of this subchapter (relating to Limitations). An applicant who establishes eligibility under this subsection is not considered a renewal applicant for the purposes of §23.97 of this subchapter (relating to Applicant Ranking Priorities).

[~~(b) Notwithstanding subsection (a)(4) of this section, to be eligible to receive loan repayment assistance as a specialist in school psychology as outlined under subsection (a)(3)(F) of this section, the applicant must:~~]

[~~(1) have completed one, two, or three consecutive service periods of employment in:~~]

[~~(A) a school district which is located partially or completely in a MHPSA;~~]

[~~(B) an open-enrollment charter school located in a MHPSA; or~~]

[~~(C) a Texas public school that receives federal funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. §6301 et seq.); and~~]

[~~(2) have provided mental health services to students enrolled in that district or school during that time of employment.~~]

§23.97. Applicant Ranking Priorities.

(a) Each fiscal year an application deadline will be posted on the program web page.

(b) If there are not sufficient funds to offer loan repayment assistance for all eligible providers, then applications shall be ranked using priority determinations in the following order [~~prioritized as follows~~]:

[~~(1)~~] [~~Applications from eligible providers from practice specialties described in §23.96(a)(3)(A) - (G) of this subchapter (relating to Applicant Eligibility), ranked by the following criteria:~~]

(1) [~~(A)~~] renewal applications;

(2) [~~(B)~~] applications from providers who sign SLRP contracts;

(3) [~~(C)~~] applications from providers whose employers are located in an MPHSA, prioritizing higher MHPSA scores. If a provider works for an agency located in an MHPSA that has satellite clinics and the provider works in more than one of the clinics, the highest MHPSA score where the provider works shall apply. If a provider travels to make home visits, the provider's agency base location and its MHPSA score shall apply. If a provider works for different employers in multiple MHPSAs having different degrees of shortage, the location having the highest MHPSA score shall apply;

(4) [~~(D)~~] applications from providers in state hospitals;

(5) applications from providers in public schools;

(6) [~~(E)~~] applications from providers whose employers are located in counties with a population of less than 50,000 persons. In the case of providers serving at multiple sites, at least 75 percent of their work hours are spent serving in counties with a population of less than 50,000 persons;

(7) applications from providers described by §23.96(b) of this subchapter (relating to Applicant Eligibility); and

(8) [~~(F)~~] applications received on the earliest dates. [~~; and~~]

[~~(2) Applications from eligible providers from the practice specialty described in §23.96(a)(3)(H) of this subchapter, ranked by the following criteria:~~]

[~~(A) renewal applications; and~~]

[~~(B) applications received on the earliest dates.~~]

(c) If state funds are not sufficient to allow for maximum loan repayment assistance amounts stated in §23.100 of this subchapter (relating to Amount of Repayment Assistance) for all eligible applicants described by subparagraph (b)(1) of this section, the Coordinating Board shall adjust in an equitable manner the state-funded distribution amounts for a fiscal year, in accordance with Texas Education Code, §61.607(d).

§23.100. Amount of Repayment Assistance.

(a) Repayment assistance for each service period will be determined by applying the following applicable percentage to the lesser of the maximum total amount of assistance allowed for the provider's practice specialty, as established by §23.101 of this subchapter (relating to Limitations), or the total student loan debt owed at the time the provider established eligibility for the program:

(1) for the first service period, 33.33 percent;

(2) for the second service period, 33.33 percent; and

(3) for the third service period, 33.34 percent.

(b) An eligible provider may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, for a minimum of twenty (20) hours per week.

(c) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Coordinating Board to constitute good cause, removal from the program.

(d) One-Time Increase for Fluency in Language of Need.

(1) Each biennium, the Coordinating Board shall publish for each profession described by §23.96(a)(3) of this subchapter (relating to Applicant Eligibility) a list of languages other than English for which there is a critical need for fluent providers in Texas.

(2) Subject to the limitations established in §23.101 of this subchapter, a provider whose employer certifies that the provider is fluent in a language listed by the Coordinating Board under paragraph (1) of this subsection shall receive an increase of $5,000 to the amount of repayment assistance described by subsection (a) of this section.

(3) A provider may receive an increased amount of repayment assistance under this subsection only once. The increase will be applied to assistance received for the first service period during which the provider meets the criteria described in paragraph (2) of this subsection.

(4) This subsection applies only to providers who first establish eligibility for the program on or after September 1, 2025.

(e) One-Time Increase for Service in Less Populous Counties.

(1) Subject to the limitations established in §23.101 of this subchapter, a provider who practices in a county with a population of 150,000 or fewer persons shall receive an increase of $10,000 to the amount of repayment assistance described by subsection (a) of this section.

(2) A provider may receive an increased amount of repayment assistance under this subsection only once. The increase will be applied to assistance received for the first service period during which the provider meets the criteria described in paragraph (1) of this subsection.

(3) This subsection applies only to providers who first establish eligibility for the program on or after September 1, 2025.

(f) Subject to the limitations established in §23.101 of this subchapter, a provider who first established eligibility for the program on or after September 1, 2025, and who establishes eligibility under §23.97(b) of this subchapter (relating to Applicant Eligibility) may receive up to $15,000 per service period for a maximum of two consecutive service periods.

§23.101. Limitations.

In addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to the Mental Health Professionals Loan Repayment Assistance Program.

(1) Not more than 10 percent of the number of loan repayment assistance grants paid under this subchapter each year may be offered to providers providing mental health services to persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice. Applications from these providers will be selected in the order they were submitted.

(2) Not more than 30 percent of the number of loan repayment assistance grants paid under this subchapter each fiscal year may be offered to providers in any one of the eligible practice specialties, unless excess funds remain available after the 30 percent maximum has been met.

(3) Except as provided by paragraph (4) of this section, the [~~The~~] total amount of state appropriated repayment assistance received by a provider under this subchapter may not exceed:

(A) $180,000 [~~$160,000~~], for a psychiatrist;

(B) $100,000 [~~$80,000~~], for:

(i) a psychologist;

(ii) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work;

(iii) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling; or

(iv) a licensed marriage and family therapist, if the marriage and family therapist had received a doctoral degree related to marriage and family therapy;

(C) $80,000 [~~$60,000~~], for an advanced practice registered nurse;

(D) $60,000 [~~$40,000~~], for:

(i) a licensed specialist in school psychology; [~~,~~]

(ii) a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has not received a doctoral degree related to social work or counseling; [~~and~~]

(iii) a licensed master social worker;

(iv) a licensed professional counselor associate;

(v) a licensed marriage and family therapist associate; or

(vi) a certified school counselor described by §23.96(a)(3)(L) of this subchapter (relating to Applicant Eligibility); and

(E) $50,000, for a licensed chemical dependency counselor who became licensed within the same 12-month period as receiving the counselor's most recent degree applicable to the profession's licensing requirements; and

(F) [~~(E)~~] $15,000 [~~$10,000~~], for assistance received by a licensed chemical dependency counselor, if the chemical dependency counselor has received at least an associate degree related to chemical dependency counseling or behavioral science and is not described by paragraph (3)(F) of this section.

(4) A provider's loan repayment assistance amount, including any increases or additional payments as described by §23.100(d), (e), or (f) of this subchapter (relating to Amount of Repayment Assistance) may not exceed the lesser of:

(A) the provider's unpaid principal and interest owed on one or more eligible education loans, as described in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan); or

(B) the applicable maximum amount for the provider listed in paragraph (3) of this section, plus 10 percent.

§23.102. Provisions Specific to Mental Health Professionals Who Initially Established Eligibility for the Program Before September 1, 2023.

(a) Applicant Eligibility. Notwithstanding §23.96(a) of this subchapter (relating to Applicant Eligibility), to be eligible to receive loan repayment assistance, a provider who first established eligibility for the program before September 1, 2023, must:

(1) submit a completed application to the Coordinating Board by the established deadline, which will be posted on the program web page;

(2) be a U.S. citizen or a Legal Permanent Resident and have no license restrictions;

(3) currently be employed as one of the eligible practice specialties listed in §23.96(a)(3)(A) - (H); and

(4) have completed one, two, three, four, or five consecutive service periods practicing in an MHPSA providing direct patient care to Medicaid enrollees and/or CHIP enrollees, if the practice serves children, or to persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor.

(b) Notwithstanding subsection (a)(4) of this section, a psychiatrist who first established eligibility for the program before September 1, 2023, must have earned certification from the American Board of Psychiatry and Neurology or the American Osteopathic Board of Psychiatry and Neurology to qualify for loan repayment assistance for a fourth or fifth consecutive service period.

(c) Amount of Repayment Assistance. Notwithstanding §23.100(a) of this subchapter (relating to Amount of Repayment Assistance), for providers who first established eligibility for the program before September 1, 2023, repayment assistance for each service period will be determined by applying the following applicable percentage to the lesser of the maximum total amount of assistance allowed for the provider's practice specialty, as established by §23.103 [~~§23.101~~] of this subchapter (relating to Provisions Specific to Mental Health Professionals Who Initially Established Eligibility for the Program On or After September 1, 2023 and Before September 1, 2025 [~~Limitations~~]), or the total student loan debt owed at the time the provider established eligibility for the program:

(1) for the first service period, 10 percent;

(2) for the second service period, 15 percent;

(3) for the third service period, 20 percent;

(4) for the fourth service period, 25 percent; and

(5) for the fifth service period, 30 percent.

§23.103. Provisions Specific to Mental Health Professionals Who Initially Established Eligibility for the Program On or After September 1, 2023 and Before September 1, 2025.

(a) Notwithstanding §23.97 of this subchapter (relating to Applicant Eligibility), to be eligible to receive loan repayment assistance, an applicant who first established eligibility for the program on or after September 1, 2023, but before September 1, 2025, must:

(1) submit a completed application to the Coordinating Board by the established deadline, which will be posted on the program web page;

(2) be a U.S. citizen or a Legal Permanent Resident and have no license restrictions;

(3) currently be employed as one of the following eligible practice specialties:

(A) a psychiatrist;

(B) a psychologist, as defined by §501.002, Texas Occupations Code;

(C) a licensed professional counselor, as defined by §503.002, Texas Occupations Code;

(D) an advanced practice registered nurse, as defined by §301.152, Texas Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing;

(E) a licensed clinical social worker, as defined by §505.002, Texas Occupations Code;

(F) a licensed specialist in school psychology, as defined by §501.002, Texas Occupations Code;

(G) a licensed chemical dependency counselor, as defined by §504.001, Texas Occupations Code; or

(H) a licensed marriage and family therapist, as defined by §502.002, Texas Occupations Code; and

(4) have completed one, two, or three consecutive service periods:

(A) in an MHPSA, providing direct patient care to:

(i) Medicaid enrollees;

(ii) CHIP enrollees, if the practice serves children;

(iii) persons in a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor; or

(iv) persons in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor;

(B) in a state hospital, providing mental health services to patients; or

(C) providing mental health services to individuals receiving community-based mental health services from a local mental health authority, as defined in Texas Health and Safety Code, §531.002.

(b) Notwithstanding §23.97 of this subchapter or subsection (a)(4) of this section, to be eligible to receive loan repayment assistance as a specialist in school psychology as outlined under subsection (a)(3)(F) of this section, an applicant who first established eligibility for the program on or after September 1, 2023, but before September 1, 2025, must:

(1) have completed one, two, or three consecutive service periods of employment in:

(A) a school district which is located partially or completely in a MHPSA;

(B) an open-enrollment charter school located in a MHPSA; or

(C) a Texas public school that receives federal funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. §6301 et seq.); and

(2) have provided mental health services to students enrolled in that district or school during that time of employment.

(c) Limitations. Notwithstanding §23.101(3) and (4) of this subchapter (relating to Limitations), and in addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to providers who first established eligibility for the program on or after September 1, 2023, but before September 1, 2025.

(1) The total amount of state appropriated repayment assistance received by a provider under this subchapter may not exceed:

(A) $160,000, for a psychiatrist;

(B) $80,000, for:

(i) a psychologist;

(ii) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work;

(iii) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling; or

(iv) a licensed marriage and family therapist, if the marriage and family therapist had received a doctoral degree related to marriage and family therapy;

(C) $60,000, for an advanced practice registered nurse;

(D) $40,000, for a licensed specialist in school psychology, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has not received a doctoral degree related to social work or counseling; and

(E) $10,000, for assistance received by a licensed chemical dependency counselor, if the chemical dependency counselor has received an associate degree related to chemical dependency counseling or behavioral science.

(2) A provider's loan repayment assistance amount may not exceed the unpaid principal and interest owed on one or more eligible education loans, as described in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan).

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6365

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CHAPTER 24. STUDENT LOAN PROGRAMS
SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §§24.1 - 24.4

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter A, §§24.1 - 24.4, concerning General Provisions. Specifically, this new section will establish definitions, delegation of authority, and disbursement provisions for the Coordinating Board's student loan programs, as well as provisions relating to the appropriation of funds from the former B-On-Time Student Loan Account. The Coordinating Board is authorized by Texas Education Code, Chapter 52, Subchapter C, to adopt rules relating to its student loan programs, and by Texas Education Code, §56.0092 to adopt rules relating to the former B-On-Time Student Loan Account.

The overwhelming majority of the substantive provisions of the proposed rules consist of mirroring or reconstituted rules from other existing chapters. A small number of provisions are newly proposed for rulemaking, where appropriate to codify existing procedures and provide additional transparency to stakeholders.

Rule 24.1, Definitions, provides definitions for common terms and phrases used throughout Chapter 24. Most definitions mirror those in §22.1, in the General Provisions currently applicable to all student financial aid programs, or have simply been centralized from the programs' subchapters. Added to these are new definitions for "favorable credit report evaluation," "insufficient resources to finance education" (a statutory term of art in Texas Education Code, §52.32), "manageable debt," and "repayment period," which codify various aspects of the Coordinating Board's current practice. The creation of these definitions does not represent a change in the administration of the Coordinating Board's student loan programs.

Rule 24.2, Delegation of Powers and Duties, codifies the governing board of the agency's delegation to the Commissioner of Higher Education the powers, duties, and functions authorized by Texas Education Code, Chapter 52, Subchapter C, except those relating to the sale of bonds and the letting of contracts for insurance. It is comprised of reconstituted §22.85 and §22.189 and does not represent a change in the administration of the Coordinating Board's student loan programs.

Rule 24.3, Loan Disbursement to Students, establishes the means by which institutions participating in the Coordinating Board's loan programs may disburse loan funds to their students. Subsection (a) cites back to §22.2, relating to Timely Disbursement of Funds, for circumstances other than late disbursements. Subsection (b) establishes that no disbursement

should be made until the student and cosigner (if applicable) have executed a promissory note, as required by Texas Education Code, §52.34. Subsection (c) addresses late disbursements of loans, i.e., disbursements made after the student's period of enrollment has concluded. In these cases, the student must have applied for the loan while enrolled, and the loan must be used to pay the student's outstanding balance at the institution for that period of enrollment. Such a loan must be disbursed within 180 days of the end of the student's enrollment period and cannot be disbursed to the student directly. Subsection (d) clarifies that the section does not apply to the Texas Armed Services Scholarship Program, because funds from that program are not disbursed as loans.

Rule 24.4, Appropriation of Funds from Former B-On-Time Student Loan Account, provides the method by which the Coordinating Board calculates the distributions of any excess funds in the former B-On-Time Student Loan Account. It is the reconstituted §22.342 and does not represent a change in the administration of these funds.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved rule clarity and administration of student loan programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to the administration of its student loan programs, and Section 56.0092, which provides the Coordinating Board with the authority to adopt rules relating to the distribution of funds from the former B-On-Time Student Loan Account.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.1. Definitions.

The following words and terms, when used in chapter 24, shall have the following meanings, unless otherwise defined in a particular subchapter:

(1) Alternative Educator Certification Program--An approved educator preparation program, delivered by entities approved by the State Board for Educator Certification under the provisions of part 7, chapter 228 of this title (relating to Requirements for Educator Preparation Programs), specifically designed as an alternative to a traditional undergraduate certification program, for individuals already holding at least a baccalaureate degree.

(2) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(3) Borrower--An individual who signs a student loan promissory note and thereby assumes liability for the debt and all fees associated with the note and who uses the proceeds of the loan to finance the individual's postsecondary education.

(4) Commissioner--The Texas Commissioner of Higher Education.

(5) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(6) Cosigner--An individual who signs a student loan promissory note and thereby assumes liability for the debt and all fees and expenses associated with the note but who is not a direct beneficiary of the proceeds of the loan.

(7) Cost of Attendance--An institution's estimate of the expenses incurred by a typical financial aid recipient in attending a particular institution of higher education. It includes direct educational costs (tuition and fees) as well as indirect costs (room and board, books and supplies, transportation, personal expenses, and other allowable costs for financial aid purposes).

(8) Degree or Certificate Program--A program of study leading to a baccalaureate degree, associate degree, or certificate.

(9) Favorable Credit Report Evaluation--A determination made by the Coordinating Board regarding a prospective borrower or cosigner's creditworthiness. For the purposes of this chapter, a borrower or cosigner is considered to have a favorable credit report evaluation if the person:

(A) Has an Experian VantageScore of 650 or higher;

(B) Does not have public records that demonstrate credit concerns such as tax liens or bankruptcy proceedings;

(C) Has a minimum of four credit trade lines, excluding student loans or authorized user accounts; and

(D) Has not defaulted on any federal, state, or private education loans.

(10) Fund--The Texas Opportunity Plan Fund as created by the Constitution of the State of Texas, Article III, 50b; the Student Loan

Revenue Bond Fund authorized in the Texas Education Code, chapter 56, subchapter H; and/or the Student Loan Auxiliary Fund, authorized in the Texas Education Code, chapter 52, subchapter F.

(11) Half-Time--For undergraduates, enrollment or expected enrollment for the equivalent of at least six but fewer than nine semester credit hours per regular semester. For graduate students, enrollment or expected enrollment for the equivalent of 50 percent of the normal full-time course load of the student's program of study as defined by the institution.

(12) Institution of Higher Education--As defined in Texas Education Code, §61.003.

(13) Insufficient Resources to Finance Education--A requirement for a student to be eligible for certain loan programs. For the purposes of this chapter, a student is considered to have insufficient resources to finance his or her education if the student's cost of attendance is greater than the total amount of financial aid offered to the student. The amount of federal Direct Loans for which the student is eligible must be included in the calculation of the financial aid offered, regardless of whether the student receives the loans.

(14) Manageable Debt--An undergraduate student's level of aggregated student loan debt from all sources (including federal, state, and private student loans) such that the student's estimated monthly payment (for all loans) five years after graduation is less than 10 percent of the student's projected income, based on the student's course of study. See Figure 1 for more information.
Figure: 19 TAC §24.1(14)

(15) Private or Independent Institution of Higher Education--As defined in Texas Education Code, §61.003.

(16) Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Coordinating Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including the determination of student eligibility, selection of recipients, maintenance of all records, and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the institution's chief executive officer, the director of student financial aid shall serve as Program Officer.

(17) Repayment Period--The length of time during which a borrower is expected to fully repay the borrower's loan(s). The repayment period is used to determine the number of payments required to repay the loan(s) and therefore the borrower's minimum monthly payment.

(18) Student Loan--A loan incurred by a student to assist in covering the student's cost of education.

(19) Student Loan Debt--The outstanding balance of principal, interest, and fees associated with an individual's education or student loans.

(20) Semester Credit Hour--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

§24.2. Delegation of Powers and Duties.

The Board delegates to the Commissioner the powers, duties, and functions authorized by Texas Education Code, chapter 52, except those relating to the sale of bonds and the letting of contracts for insurance.

§24.3. Loan Disbursement to Students.

(a) Except as provided by subsection (c) of this section, disbursements of loans under this subchapter should be made in accordance with §22.2 of this title (relating to Timely Disbursement of Funds).

(b) No disbursement shall be made to any student until the student and cosigner, if applicable, have executed a promissory note payable to the program for the full amount of any loan plus interest and other authorized fees.

(c) Late Disbursements.

(1) An eligible student may receive a loan disbursement under this program after the end of the student's period of enrollment if:

(A) The student applied for a loan, and the institution certified the loan, prior to the end of the student's period of enrollment for which the loan funds are being borrowed; and

(B) The loan would be used only to pay the student's outstanding account balance at the institution certifying the loan for the period of enrollment covered by the certified loan.

(2) A loan may not disbursed more than 180 days after the end of the student's period of enrollment.

(3) Loans that are disbursed after the end of the student's period of enrollment must be used to pay the student's outstanding balance from his or her period of enrollment at the institution.

(4) Documentation must be retained by the institution proving the loan disbursed after the end of the student's period of enrollment was used to make a payment against an outstanding balance at the institution from the relevant period of enrollment.

(5) Under no circumstances are funds from a late disbursed loan to be released to the student. The institution shall return any funds in excess of the outstanding balance described by paragraph (3) of this subsection to the Coordinating Board no later than six business days after the receipt of funds.

(d) Applicability. The provisions of this section do not apply to the Texas Armed Services Scholarship Program, as described in chapter 22, subchapter I, of this title (relating to Texas Armed Services Scholarship Program). The timely disbursement of funds for that program is governed by §22.2 of this title (relating to Timely Disbursement of Funds).

§24.4. Appropriation of Funds from Former B-On-Time Student Loan Account.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings:

(1) At-Risk Student--An undergraduate student who has previously received a grant under the federal Pell Grant program, met the Expected Family Contribution (EFC) criterion for a grant under that program, or whose total score on the SAT or the ACT, excluding the optional essay test, is less than the national mean of students' scores on the applicable test.

(2) Eligible Institution--A general academic teaching institution described by Texas Education Code, §56.451(2)(A), or a medical and dental unit described by Texas Education Code §56.451(2)(B), as those paragraphs existed immediately before September 1, 2015.

(3) Total Disbursements--The total amount of tuition set-aside funds disbursed by an eligible institution to students for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(4) Total Set-Asides--The total amount of tuition funds set aside by an eligible institution for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(5) Unused Set-Asides--The amount of funds remaining after subtracting an eligible institution's total disbursements from its total set-asides. If an eligible institution's total disbursements are greater than its total set-asides, the institution's unused set-asides are considered to be zero.

(b) Allocation. After the abolition of the Texas B-On-Time Student Loan Account, the Coordinating Board may allocate any remaining money in the account to eligible institutions. Each eligible institution's proportion of the allocation shall be its unused set-asides divided by the sum of all eligible institutions' unused set-asides.

(c) Verification of Data. Allocation calculations will be shared with all eligible institutions for comment and verification prior to final posting, and the institutions will be given ten (10) working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the B-On-Time disbursements for Fiscal Years 2007 through 2015 or to notify the Coordinating Board in writing of any inaccuracies.

(d) An eligible institution that receives an appropriation of money under this section may use the money only to support efforts to increase the number of at-risk students who graduate from the institution or the rate at which at-risk students graduate from the institution.

(e) Reporting. An eligible institution that receives an appropriation of money under this section shall provide the Coordinating Board with a report documenting the amount of its expenditures from funding received under this section and its adherence to subsection (d) of this section in a manner provided by the Commissioner.

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

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SUBCHAPTER B. STUDENT LOAN SERVICING

19 TAC §§24.10 - 24.18

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter B, §§24.10 - 24.18, concerning Student Loan Servicing. Specifically, these new sections will delineate the means by which the Coordinating Board services state student loans or conditional grants that have converted to loans, including as to repayment terms, interest rate adjustments, forbearances, death or disability determinations, and collections enforcement. It also includes provisions specific to state student loan programs from which no new loans are offered but for which the Coordinating Board still services existing loans.

The Coordinating Board is authorized by Texas Education Code, Chapter 52, Subchapter C, to adopt rules relating to the administration of its student loan programs, as well as Texas Education Code, §56.0092 (Texas B-On-Time Loan Program), §56.3575 (Teach for Texas Conditional Grant Program, and §61.9774 (Texas Armed Services Scholarship Program) to adopt rules related to those programs.

Rule 24.10, Authority and Purpose, sets out the statutory authority for the subchapter, as well as the purpose in establishing servicing terms for state student loan programs and program-specific provisions for "legacy" state loan programs (i.e. those for which no new loans are offered but existing loans are still serviced by the Coordinating Board). The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.11, Applicability, establishes the scope of loan programs for which the subchapter applies. Generally, the provisions of the subchapter apply to state student loan programs but not to federal student loans serviced by the Coordinating Board (with noted exceptions). This section also explains how potential differences between existing agreements (which span a variety of different programs across several decades) and the provisions of this subchapter (which are intended to provide a consistent baseline for the Coordinating Board's loan servicing administration across all loan programs and provide additional transparency and clarity to borrowers) will be handled. The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.12, Repayment of Loans, provides for repayment provisions common to state student loan programs. The provisions of the rule are reconstituted and consolidated from like provisions in Texas Administrative Code, Chapter 22, Subchapters C, I, J, Q, X, and Y. Subsection (a) provides for the "grace period," the six-month period allowed after borrowers are no longer enrolled in higher education before they enter repayment on their loan(s). Subsection (b) clarifies that all loans may be prepaid without penalty. It also codifies existing practice that payments made before the repayment period begins do not prematurely activate the repayment period. Subsection (c) provides for late fees assessed to borrowers who do not make their monthly payments timely. Subsection (d) specifies that the Coordinating Board may determine the priority order in which payments are applied to a loan's principal, interest, other fees, etc., and subsection (e) recognizes that the Coordinating Board may choose to offer various repayment plans to eligible borrowers. Subsection (f) provides the specific repayment period that is uniquely applicable to the Teach for Texas legacy programs. The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.13, Interest Rate Adjustment for Repayment via Auto-Debit or Automated Clearing House (ACH), codifies the Coordinating Board practice of providing a one-quarter percentage point reduction in a loan's interest rate for borrowers who enrolled in automated payments via auto-debit, Automated Clearing House, or similar technologies. Although the provisions of this section are not currently in rule, they do not represent a change in the administration of state student loan programs.

Rule 24.14, Forbearance, details how a borrower may request, and the Coordinating Board may authorize, a period of forbear-

ance due to economic hardship, subsequent enrollment in post-secondary studies, or active-duty military service. The provisions of this section are reconstituted and consolidated from various locations within Texas Administrative Code, Chapter 22, with nonsubstantive edits to improve rule clarity and transparency and better align the rule text with current practice. The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.15, Deceased or Disabled Borrowers or Cosigners, establishes the procedures by which the Coordinating Board verifies a borrower or cosigner's death or total disability, as well as the disposition of the individuals' liability in these cases. Subsections (a), (b), and (c) are reconstituted and consolidated provisions from various locations in Chapter 22. Subsection (d), which establishes that a borrower or cosigner who provides documentation of a 100 percent disability rating from the United States of Veterans Affairs is considered to have a total and permanent disability for the purposes of servicing state student loans, does not currently exist in rule but codifies current practice. The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.16, Enforcement of Collection, provides for the process by which the Coordinating Board may seek collection of a loan in default, as well as related provisions relating to collection charges and cosigner responsibilities. The provisions of this section are reconstituted and consolidated from various locations in Chapter 22, with nonsubstantive edits made for rule clarity and alignment. The provisions of this section do not represent a change in the administration of state student loan programs.

Rule 24.17, Health Education Loan Program, relates to program-specific provisions for the Health Education Loan Program, a state loan program for which new loans are no longer offered but existing loans are still serviced by the Coordinating Board. Aspects of this program are tied to program rules for the Health Education Assistance Loan, a federal loan program, rather than other state programs, necessitating the separate rule. It is reconstituted and consolidated from program-specific portions of Chapter 22, Subchapter C, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.18, Texas B-On-Time Loan Program, relates to program-specific provisions for the Texas B-On-Time Loan Program, a state loan program for which new loans are no longer offered but existing loans are still serviced by the Coordinating Board. These loans differ substantively from other state loan programs, notably, in including a forgiveness component and having no interest, necessitating the separate rule. The rule is reconstituted from the relevant portions of Chapter 22, Subchapter Q, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity and transparency in administration of student loan programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to the administration of its student loan programs, §56.0092 (Texas B-On-Time Loan Program), §56.3575 (Teach for Texas Conditional Grant Program), and §61.9774 (Texas Armed Services Scholarship Program) to adopt rules related to those programs.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.10. Authority and Purpose.

(a) Authority. Unless otherwise noted, authority for this subchapter is provided in the Texas Education Code, chapter 52, subchapter C.

(b) Purpose. This subchapter establishes consistent rules relating to the servicing of education loans originated by the Coordinating Board or conditional grants that have been converted to education loans, as authorized by law, including programs for which no new loans are offered.

§24.11. Applicability.

(a) Unless otherwise specified, the provisions of this subchapter apply to any non-federal student loan serviced by the Coordinating Board.

(b) To the extent that there may be a conflict between a provision of this subchapter and a provision in an existing agreement with a

borrower, the provisions of this subchapter will control with respect to procedural and administrative issues, and the provisions of the existing agreement will control as to any issue that implicates a borrower's substantive legal rights.

(c) The subchapter also applies to state loan programs serviced by the Coordinating Board but for which no new loans are offered, including the Teach for Texas Conditional Grant Program and Alternative Certification Conditional Grant Program.

§24.12. Repayment of Loans.

(a) Grace Period. The repayment period for a loan authorized under this chapter shall begin six months after:

(1) the date on which the student ceases to be enrolled at least half-time at an eligible institution, for borrowers enrolled in credential programs measured in semester credit hours;

(2) the anticipated graduation date certified by the institution of higher education for borrowers enrolled in programs that are not measured in semester credit hours; or

(3) for Texas Armed Services Scholarships converted to loans, the date on which a scholarship is converted into a loan, as described in §22.170 of this title (relating to Conversion of the Scholarship to a Loan).

(b) Prepayment. Any loans subject to this subchapter may be prepaid without penalty. Payments made before the repayment period begins do not prematurely activate the repayment period.

(c) Late Charges. The Coordinating Board may assess a late charge, not to exceed the lesser of five percent (5%) of the scheduled monthly payment or five dollars ($5.00), if the past due amount is not received within 20 days of the scheduled due date.

(d) Application of Payments. Subject to the terms of the promissory note, the Coordinating Board shall determine the priority order in which payments shall be applied to interest, late charges, principal, collections costs and any other charges.

(e) To the extent permitted by law, the Coordinating Board may offer a variety of repayment plans to applicable borrowers.

(f) The repayment period for Teach for Texas Conditional Grant Program and Alternative Certification Conditional Grant Program (programs for which no new loans are offered but are still serviced by the Coordinating Board) may not exceed 10 years.

§24.13. Interest Rate Adjustment for Repayment via Auto-Debit or Automated Clearing House (ACH).

The Coordinating Board may adjust the interest rate for a loan to be one-quarter percentage point lower than the interest rate set by the Commissioner for the loan's program if the adjusted interest rate is conditioned upon the borrower enrolling in automated payments via auto-debit, Automated Clearing House (ACH), or similar automated funds transfer processes for scheduled repayment of the loan.

§24.14. Forbearance.

(a) In this section, "forbearance" means discretionary permission from the Coordinating Board that allows:

(1) a borrower to postpone payments temporarily;

(2) an extension of time for making payments; or

(3) a temporary reduction in the payment amount from the amount that was previously scheduled.

(b) Upon receiving a written or verbal request stating the circumstances that merit such consideration, the Coordinating Board may grant periods of forbearance on any account held by the Coordinating Board for:

(1) unusual financial hardship;

(2) enrollment at least half-time in a postsecondary institution that is eligible to receive federal student aid; or

(3) full-time, active duty service in the armed services of the United States or state military forces, as defined in Texas Government Code, §431.001.

(c) The Coordinating Board may request supplemental documentation as needed regarding the request for forbearance.

(d) Interest will continue to accrue on a borrower's loans during periods of forbearance. The Coordinating Board will recalculate the borrower's minimum monthly payment upon conclusion of a period of forbearance to reflect the accrued interest.

(e) An authorized forbearance under this section extends the repayment period of the borrower's applicable loan(s), to the extent authorized by law.

§24.15. Deceased or Disabled Borrowers or Cosigners.

(a) Verification of Death or Disability. The final verification of death or determination of permanent and total disability of a borrower or cosigner shall be made by the Coordinating Board in a manner consistent with the Federal Direct Loan Program.

(b) Discharge of Borrower Liability. Upon final verification of the death or determination of permanent and total disability of a borrower, all loans originated by the Coordinating Board shall be discharged unless there is a judgement against the borrower.

(c) Discharge of Cosigner Liability.

(1) Upon final verification of the death or determination of permanent and total disability of a borrower, the Coordinating Board shall release the liability of the cosigner and advise the Office of Attorney General of such if there is a judgment against the cosigner.

(2) Upon final verification of the death or determination of permanent and total disability of a cosigner, the Coordinating Board shall release the liability of the cosigner and notify the Office of Attorney General of such if there is a judgment against the cosigner.

(d) A borrower or cosigner who provides documentation of a 100-percent disability rating from the United States Department of Veterans Affairs is considered to have a total and permanent disability for the purposes of this section.

§24.16. Enforcement of Collection.

(a) When any borrower or cosigner fails or refuses to make as many as six monthly payments due in accordance with an executed promissory note for a student loan originated by the Coordinating Board, the full amount of remaining principal, accrued interest, and other charges shall become due and payable immediately.

(b) When any borrower or cosigner fails or refuses to make as many as six payments due in accordance with an executed note for a student loan originated by the Coordinating Board, the loan will be considered in default, and the Coordinating Board must report this information to the Office of Attorney General, which then may file suit for the outstanding balance.

(c) Collection Charges. In the case of accounts with multiple payments due, the Coordinating Board may authorize the assessment of charges necessary to collect the loan which may include court costs fees, attorney fees, skip-trace fees, and long-distance telephone charges.

(d) Cosigner Responsibilities. Loan cosigners are guarantors of payment and not of collection; it is not necessary for the Coordinating Board to demonstrate that the borrower is insolvent before it may pursue collection against the cosigner.

(e) For the purposes of any promissory note executed by a borrower, the defense that he or she was a minor at the time he or she executed a note shall not be available to him or her in any action arising on the note.

§24.17. Health Education Loan Program.

(a) Definitions. In addition to the words and terms defined in §24.1 of this chapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) HEAL--Health Education Assistance Loan Program authorized by the Public Health Service Act, as amended, 42 U.S.C. §§292 - 292y.

(2) HELP or Program--The Health Education Loan Program.

(b) Repayment Period. All HELP loans shall be repaid in accordance with the statutes and regulations governing the HEAL Program.

(c) Minimum Repayment Amount. The Coordinating Board shall provide a repayment schedule in which all of the HELP notes extended by the Board to a borrower are treated as an account, and the repayment amount shall be calculated to repay the account over the maximum authorized period. The minimum annual repayment shall not be less than the amount that would have been provided by 42 U.S.C.S. §292(d), if the loan had been extended by the HEAL program.

(d) Deferments. The Coordinating Board shall grant deferments of loan repayment for HELP loans in the manner and under the circumstances provided for the HEAL loans in the Public Health Service Act, as amended, 42 U.S.C. §§292 - 292y. Authorized deferments for HEAL and HELP loans shall not extend the maximum repayment period.

(e) Deceased or Disabled Borrowers or Cosigners. Notwithstanding §24.15 of this subchapter (relating to Deceased or Disabled Borrowers or Cosigners), the Coordinating Board shall make the final verification of death and determination of permanent and total disability of a borrower in accordance with the governing provisions of the HEAL program.

§24.18. Texas B-On-Time Loan Program.

(a) Authority. Authority for this section is provided in the Texas Education Code, §56.0092.

(b) Purpose. The provisions of this section provide for the servicing and forgiveness of loans originated by the Coordinating Board through the Texas B-On-Time Loan Program.

(c) Definitions. In addition to the words and terms defined in §24.1 of this chapter (relating to Definitions), the following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Degree in Architecture--The completion credential awarded to a student who has completed satisfactorily the curriculum that the Board has approved as a baccalaureate degree program identified as belonging to Category 04.0201 of the Texas CIP Codes.

(2) Degree in Engineering--The completion credential awarded to a student who has completed satisfactorily the curriculum that the Board has approved as a baccalaureate degree program identified as belonging to Category 14 of the Texas CIP Codes.

(3) Texas CIP Codes--Classification codes for degree programs, agreed upon by institutions and approved by the Board, based on curricular content belonging to categories within the federal Classification of Instructional Programs (CIP) published by the National Center for Educational Statistics. Texas CIP Codes are available at http://www.txhighereddata.org/Interactive/CIP/.

(d) Forgiveness of Loans. A Texas B-On-Time loan shall be forgiven, upon request of the student, if the student was awarded a baccalaureate degree from an eligible institution, and the student either:

(1) graduated with a B average, or the equivalent of a cumulative grade point average of at least 3.0 on a four-point scale, and received:

(A) a baccalaureate degree within four calendar years after the date the student initially enrolled in an eligible institution; or

(B) a baccalaureate degree within five calendar years after the date the student initially enrolled in an eligible institution if the institution has reported or will report that the student graduated with a degree in architecture, engineering, or any other program that the institution certifies to the Board is a program that requires more than four years to complete; or

(2) graduated with a B average, or the equivalent of a cumulative grade point average of at least 3.0 on a four-point scale, with a total number of course credit hours earned, including transfer credit hours and excluding hours earned exclusively by examination, dual credit course hours, and hours earned for developmental coursework that an institution required the student to take under the former provisions of Texas Education Code, §51.3062 (relating to Success Initiative), or under the former provisions of Texas Education Code, §51.306 (relating to Texas Academic Skills Program), that is not more than six hours more than the number of credit hours required to complete a baccalaureate degree.

(e) Loan Interest. There shall be no interest charged for a Texas B-On-Time Loan unless a judgment is obtained against the borrower for default in payment. If a judgment should be taken, the interest rate shall be the amount specified in §304.003 of the Texas Finance Code, (relating to Judgment Interest Rate: Interest Rate or Time Price Differential Not in Contract).

(f) Deferment. An education deferment is available to any borrower whose account is not in default and who provides the Coordinating Board with documentation of enrollment for at least a half-time course load.

(g) Repayment Period. All loans extended under this program to any borrower shall be placed by the Coordinating Board into an "account," with the full amount of principal and any fees and costs that accrue over the life of the loans to be repaid in monthly installments which shall be calculated to repay the account over a period of not more than 15 years from the beginning of the repayment period. In no case will the minimum annual repayment on the account be less than $900.

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

Filed with the Office of the Secretary of State on August 14, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6365

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SUBCHAPTER C. ANNUAL STUDENT LOAN DEBT DISCLOSURE

19 TAC §§24.30 - 24.32

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter C, §§24.30 - 24.32, concerning Annual Student Loan Debt Disclosure, which substantively are taken from the repealed Chapter 21, Subchapter C. Specifically, this new section will provide guidance to institutions regarding required annual disclosures to students regarding their student loan debt. The Coordinating Board is authorized by Texas Education Code, §52.335, to adopt rules relating to the administration of the required loan debt disclosure.

Rule 24.30, Authority and Purpose, establishes the statutory authority and purpose of the subchapter. It is the reconstituted §21.45 and does not represent a change in the administration of the student loan debt disclosure.

Rule 24.31, Required Disclosure, provides for the manner and timing of the annual loan debt disclosure. It is the reconstituted §21.48, with elements of §21.49 added for improved clarity. Reconstituted rule text includes nonsubstantive edits to improve clarity of the rule. Subsection (c) restates Texas Education Code, §52.335(e), to capture all aspects of the disclosure within the rule. This does not represent a change in the administration of the student loan debt disclosure.

Rule 24.32, Disclosure Elements, details the required components of the annual loan debt disclosure. It is the reconstituted portions of §21.49 that were not included in §24.31, with nonsubstantive edits for clarity and does not represent a change in the administration of the student loan debt disclosure.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect, there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the improved rule clarity and administration of student loan programs and related functions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 52.335, which provides the Coordinating Board with the authority to adopt rules relating to the annual loan debt disclosure.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.30. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, §52.335.

(b) Purpose. The purpose of the annual student loan debt disclosure is to provide students with timely information regarding their student loan debt so they can make informed decisions about financing their education.

§24.31. Required Disclosure.

(a) Each institution of higher education, private or independent institution of higher education, or regional education service center described by §24.42(a)(3) of this chapter (relating to Eligible Institutions) participating in a program under this chapter that enrolls one or more students receiving state financial aid administered by the Coordinating Board shall provide estimates to each enrolled student described by subsection (b) of this section regarding his or her student loan obligations. The estimates shall:

(1) be provided at least annually;

(2) be sent electronically in a manner that complies with the Family Educational Rights and Privacy Act (20 U.S.C. §1232g; 34 CFR Part 99) and the participating higher educational institution's privacy standards; and

(3) include the required elements described in §24.32 of this subchapter (relating to Disclosure Elements).

(b) An institution shall make a disclosure to any student enrolled at the institution:

(1) who has a balance on one or more student loans; and

(2) whose debt records are received by the institution.

(c) An institution does not incur liability for any representation made in a disclosure under this subchapter.

§24.32. Disclosure Elements.

(a) A disclosure made under this subchapter shall include estimates of:

(1) the unpaid amount of federal and state student loans incurred by the student, with each type of loan identified;

(2) the total payoff amount (or a range of that amount), including principal and interest, of the loans described by paragraph (1) of this subsection, based, at a minimum, on a 10-year repayment plan; and

(3) the monthly repayment amount that a student may incur for the repayment of the loans described by paragraph (1) of this subsection, based, at a minimum, on a 10-year repayment plan.

(b) Disclosures shall include student loan debt information that the participating higher educational institution receives or otherwise obtains from the United States Department of Education's central database for student aid, currently known as the National Student Loan Data System, which is shared with institutions through the Institutional Student Information Record (ISIR), as well as information that the institution may reasonably collect from its own records.

(c) The electronic communication of the disclosure must explain the following:

(1) that the disclosure is not a complete and official record of the student's unpaid student loan debt;

(2) why the disclosure may not be complete or accurate, including an explanation that for a transfer student, the institution's estimates regarding state loans reflect only state loans incurred by the student for attendance at the current institution, and not prior institutions; and

(3) that the institution's estimates are general in nature and are not intended as a guarantee or promise.

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

Filed with the Office of the Secretary of State on August 14, 2025.

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Nichole Bunker-Henderson
General Counsel
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For further information, please call: (512) 427-6365

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SUBCHAPTER D. COLLEGE ACCESS LOAN PROGRAM

19 TAC §§24.40 - 24.46

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter D, §§24.40 - 24.46, concerning College Access Loan Program. Specifically, these new sections will provide for the authority and purpose, definitions, program eligibility, cosigner requirements, loan amounts and interest rate, and program-specific repayment provisions. The Coordinating Board is authorized by Texas Education Code, Chapter 52, Subchapter C, to adopt rules relating to state student loan programs.

Rule 24.40, Authority and Purpose, provides for the statutory authority and notes the goal of the program to provide fixed-interest loans to improve access to higher education for eligible students. The provisions of this section do not represent a change in the administration of the program.

Rule 24.41, Definitions, specifies that "CAL" or "Program," when used in the subchapter, refers to the College Access Loan (CAL) program. The provisions of this section do not represent a change in the administration of the program.

Rule 24.42, Eligible Institutions, specifies the types of institutions which may participate in the program, as well as the responsibilities of those institutions relating to program administration. It is the reconstituted, program-specific provisions of §22.45, with nonsubstantive revisions for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.43, Eligible Students, includes the criteria by which a student may qualify for a College Access Loan. Subsection (a) is the reconstituted program-specific provisions of §22.46, with nonsubstantive edits for clarity. Subsection (b) codifies Coordinating Board practice that a person who previously has had a loan discharged by the Coordinating Board due to a total and permanent disability is not eligible for a College Access Loan. The provisions of this section do not represent a change in the administration of the program.

Rule 24.44, Cosigner Requirements, lists the criteria a person must meet to act as a prospective borrower's cosigner. Subsections (a) and (b) are the reconstituted §22.47, with nonsubstantive edits for clarity. Subsection (c), similar to §24.43(c), codifies Coordinating Board practice that a person who previously has had a loan discharged by the Coordinating Board due to a total and permanent disability is not eligible to be a cosigner on a College Access Loan. The provisions of this section do not represent a change in the administration of the program.

Rule 24.45, Loan Amount and Interest Rate, details loan terms relating to the amount that can be lent and at what interest rate. It is the reconstituted and consolidated program-specific provisions of §22.49 and §22.51 with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.46, Repayment of Loans, specifies the repayment period and minimum monthly payment for CAL. These provisions currently are located in §22.53 but are substantively changed to align with current practice. The repayment period for College Access Loans is 10 years, if the borrower's state student loan balance is less than $30,000, or 20 years otherwise. Minimum monthly payments generally are calculated based on an amount required to amortize the loan within the repayment period. In cases with low loan balances, however, the minimum monthly payment is not less than $50. The provisions of this section do not represent a change in the administration of the program.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect, there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each

year of the first five years the section is in effect, the public benefit anticipated as a result of administering the sections will be the improved rule clarity and program administration. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to state student loan programs.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.40. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, chapter 52, subchapter C.

(b) Purpose. This subchapter establishes rules relating to the administration of the College Access Loan Program. The program provides fixed-interest loans to improve access to higher education for eligible students who have insufficient resources to finance their education.

§24.41. Definitions.

In addition to the words and terms defined in §24.1 of this chapter (relating to Definitions), the terms "CAL" or "Program" mean the College Access Loan Program.

§24.42. Eligible Institutions.

(a) An institution is eligible to participate in the Program if it is:

(1) an institution of higher education, as defined in §24.1 of this chapter (relating to Definitions);

(2) a private or independent institution of higher education, as defined in §24.1 of this chapter; or

(3) a regional education service center established and operated by the Commissioner of Education under Texas Education Code, chapter 8, or another entity that offers an alternative educator certification program, as defined in §24.1 of this chapter.

(b) Each participating institution shall designate a Program Officer who will act as the Coordinating Board's on-campus agent. This officer shall certify all institutional transactions and activities with regard to the Fund, as defined in §24.1 of this chapter, and shall be responsible for all records and reports reflecting the transactions with respect to the Fund. The Program Officer may authorize other student financial aid officials at the institution to certify College Access Loan Program applications.

(c) Participating institutions shall promptly report borrower changes in enrollment status to the Coordinating Board directly or to the National Student Clearinghouse.

§24.43. Eligible Students.

Subject to the requirements in §24.45 of this subchapter (relating to Loan Amount and Interest Rate), the Coordinating Board may authorize, or cause to be authorized, a College Access Loan to a student at any eligible institution which certifies that the student meets program qualifications, if the student:

(1) is a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(2) has been accepted for or is currently enrolled at least half-time at a participating institution in:

(A) a degree or certificate program, as defined in §24.1 of this chapter (relating to Definitions); or

(B) an approved alternative educator certification program, as defined in §24.41 of this subchapter (relating to Definitions);

(3) has insufficient resources to finance his or her education, as defined in §24.1 of this chapter;

(4) meets applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(5) has provided the name and contact information for two references who live at separate addresses and are expected to know the student's current address at all times throughout the life of the loan;

(6) is making satisfactory academic progress, as determined by the institution, toward the student's educational goals; and

(7) has received a favorable credit report evaluation, as defined in §24.1 of this chapter, or has obtained the signature of a qualified cosigner who has received a favorable credit report evaluation.

§24.44. Cosigner Requirements.

(a) To be eligible to be cosigner for an otherwise eligible student, a person must:

(1) be at least 21 years of age;

(2) be a United States citizen, or a permanent U.S. resident;

(3) reside in the United States or a U.S. territory;

(4) have a regular source of income; and

(5) receive a favorable credit report evaluation, as defined in §24.1 of this chapter (relating to Definitions).

(b) A spouse may not act as the cosigner for the student.

§24.45. Loan Amount and Interest Rate.

(a) Minimum Loan Amount. No College Access Loan may be authorized for less than $100.

(b) Annual Loan Limit. In no case shall the annual loan amount exceed the difference between the cost of attendance and the financial resources available to the applicant, including the applicant's

scholarships, gifts, grants, and other financial aid. The student's maximum eligibility for Federal Direct Loans, except for Federal PLUS loans, must be considered by the institution as other financial aid, whether or not the student actually receives such assistance.

(c) Aggregate Loan Limit.

(1) For undergraduate students, the maximum aggregate loan amount for any eligible student shall not exceed the student's manageable debt level, as defined in §24.1 of this chapter (relating to Definitions).

(2) For graduate and professional students, the maximum aggregate loan amount for an eligible student is the sum of the student's annual limits.

(d) Interest Rate. The interest rate charged for new loans shall be set from time to time by the Commissioner, shall be simple interest, and shall begin to accrue on the outstanding principal from the date of disbursement, including during periods of forbearance.

§24.46. Repayment of Loans.

(a) Repayment Period. The repayment period for a College Access Loan shall be:

(1) Ten (10) years, if the amount of principal owed by the borrower on loans authorized under this chapter is less than $30,000; or

(2) Twenty (20) years, if the amount of principal owed by the borrower on loans authorized under this chapter exceeds $30,000.

(b) Minimum Monthly Payment. Unless a lower monthly payment is authorized under §24.14 of this chapter (relating to Forbearance), a borrower's minimum monthly payment for a College Access Loan shall be the greater of:

(1) the amount required to amortize the loan over the course of the repayment period; or

(2) fifty dollars ($50.00).

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

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SUBCHAPTER E. FUTURE OCCUPATIONS & RESKILLING WORKFORCE ADVANCEMENT TO REACH DEMAND (FORWARD) LOAN PROGRAM

19 TAC §§24.50 - 24.59

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter E, §§24.50 - 24.59, concerning Future Occupations & Reskilling Workforce Advancement to Reach Demand (FORWARD) Loan Program, previously codified in Chapter 22, Subchapter J. Specifically, this new section will provide for the program authority and purpose, definitions, institutional and student eligibility, hardships, credential limitations, cosigner requirements, and loan origination and repayment provisions. The Coordinating Board is authorized by Texas Education Code, Chapter 52, Subchapter C, to adopt rules relating to state student loan programs.

Rule 24.50, Authority and Purpose, provides for the statutory authority for the program rules and states its goal of providing low-interest student loans to accelerate the ability of Texas employers to fill high-demand jobs with students with high-value credentials. The provisions of this section do not represent a change in the administration of the program.

Rule 24.51, Definitions, provides definitions for "FORWARD or Program" and "High-demand Credential." These definitions are reconstituted from §22.176, while other definitions from that rule were moved into Chapter 24's General Provisions. The provisions of this section do not represent a change in the administration of the program.

Rule 24.52, Eligible Institutions, establishes which institutions may participate in the FORWARD program, as well as the institutional responsibilities for participation. It is the reconstituted §22.178, except that the rule has been substantively amended to extend eligibility to regional education service centers and other entities that offer alternative educator certification programs. These institutions already are eligible to participate in the College Access Loan Program and, given that education is one of the high-demand credentials that qualifies a student for a FORWARD loan, the addition is aligned with the program's goals.

Rule 24.53, Eligible Students, specifies the criteria qualifying a student to be able to receive a FORWARD loan. It is the reconstituted §22.179 with nonsubstantive revisions for clarity and two substantive changes. Subsection (d) provides greater detail into eligibility for students enrolled in combined baccalaureate-master's programs. FORWARD is generally limited to undergraduate students except in this case, and the revised subsection specifies that the FORWARD loan may only be offered in the final two years of the (combined) credential program. The provisions of this section do not represent a change in the administration of the program.

Rule 24.54, Discontinuation of Eligibility, describes the circumstances in which a person's eligibility for the program may expire. It is the reconstituted §22.180. The provisions of this section do not represent a change in the administration of the program.

Rule 24.55, Hardship Provisions, delineates the circumstances in which a student may seek a hardship exemption from certain eligibility criteria. The rule is the reconstituted §22.181, with nonsubstantive edits, except that the list of example circumstances is updated to include the birth or adoption of a child, aligning with similar provisions in other programs. The provisions of this section do not represent a change in the administration of the program.

Rule 24.56, Eligible High-Demand Credentials, specifies the process by which the Coordinating Board, in consultation with the Texas Workforce Commission, Texas Workforce Investment Council, and the Governor's Office of Economic Development and Tourism, determines which high-demand credentials allow students to receive a FORWARD loan. It is the reconstituted §22.177. The provisions of this section do not represent a change in the administration of the program.

Rule 24.57, Cosigner Requirements, lists the criteria a person must meet to act as a prospective borrower's cosigner. It is the reconstituted §22.182, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.58, Loan Amount and Interest Rate, details loan terms relating to the amount that can be lent and at what interest rate. It is the reconstituted and consolidated provisions of §22.183 and §22.184, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.59, Repayment of Loans, specifies the repayment period and minimum monthly payment for FORWARD. It is the reconstituted §22.186(a), (c), and (d) - subsection (b) of that section is now addressed by §24.12. The provisions of this section do not represent a change in the administration of the program, except that the frequently of the Commissioner's determination of the method for calculating monthly repayment amounts under subsection (c) is changed from annually to each biennium.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity and program administration. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Chapter 52, Subchapter C, which provides the Coordinating Board with the authority to adopt rules relating to state student loan programs.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.50. Authority and Purpose.

(a) Authority. Unless otherwise noted in a section, the authority for these provisions is provided by Texas Education Code, §§52.32 - 52.39 and §52.54.

(b) Purpose. This subchapter establishes rules relating to the administration of the Future Occupations & Reskilling Workforce Advancement to Reach Demand (FORWARD) Loan Program. The program provides access to low interest loans to cover educational expenses, with the goal of accelerating the ability of employers throughout the State of Texas to fill high-demand jobs while providing students with high-value credentials.

§24.51. Definitions.

In addition to the words and terms defined in §24.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) FORWARD or Program--The Future Occupations & Reskilling Workforce Advancement to Reach Demand Loan Program.

(2) High-Demand Credential--Undergraduate degrees, certificates, or short-term credentials identified by the Coordinating Board in consultation with the Texas Workforce Commission, Texas Workforce Investment Council, and the Governor's Office of Economic Development and Tourism as filling critical workforce needs in the state while providing a high-value credential to students upon completion.

§24.52. Eligible Institutions.

(a) An institution is eligible to participate in the Program if it is:

(1) an institution of higher education, as defined in §24.1 of this chapter (relating to Definitions);

(2) a private or independent institution of higher education, as defined in §24.1 of this chapter; or

(3) a regional education service center established and operated by the Commissioner of Education under Texas Education Code, chapter 8, or another entity that offers an alternative educator certification program, as defined in §24.1 of this chapter.

(b) Each participating institution shall designate a Program Officer who will act as the Coordinating Board's on-campus agent. This officer shall certify all institutional transactions and activities with regard to the Program and shall be responsible for all records and reports reflecting the transactions with respect to the Fund. The Program Officer may authorize other student financial aid officials at the institution to certify FORWARD Loan Program applications.

(c) Each participating institution shall promptly report student borrower changes in enrollment status to the Coordinating Board directly or to the National Student Clearinghouse.

§24.53. Eligible Students.

(a) The Coordinating Board may authorize, or cause to be authorized, loans through the Program to students at any eligible institution that certifies that the student meets program qualifications, if the student:

(1) is a Resident of Texas, as defined in §22.1 of this title (relating to Definitions);

(2) is enrolled in an eligible high-demand credential program, as defined in §24.51 of this subchapter (relating to Definitions), and is determined by the student's institution to be able to complete the credential program within two years after receiving a loan under this Program;

(3) has insufficient resources to finance the student's education, as defined in §24.1 of this chapter (relating to Definitions);

(4) meets applicable standards outlined in §22.3 of this title (relating to Student Compliance with Selective Service Registration);

(5) has provided the name and contact information for two references who live at separate addresses and are expected to know the student's current address at all times throughout the life of the loan;

(6) is making satisfactory academic progress toward the eligible high-demand credential as determined by the institution; and

(7) has received a favorable credit report evaluation, as defined in §24.1 of this chapter, or has obtained the signature of a qualified cosigner who has received a favorable credit report evaluation.

(b) For students enrolled in degree programs, the student must have completed at least 50 percent of the required coursework prior to receiving a loan through the Program.

(c) For students enrolled in non-degree programs, the program's duration must be less than two years.

(d) Students enrolled in master's degree coursework are eligible for this Program if the master's degree is part of a combined baccalaureate-master's program approved by the institution of higher education. The student's combined baccalaureate-master's program is considered a single high-demand credential program for the purposes of paragraph (a)(2) and subsection (b) of this section.

§24.54. Discontinuation of Eligibility.

(a) A student's eligibility for the program ends two years from the start of the semester in which the student received the first loan through the Program unless the student is granted a hardship extension in accordance with §22.55 of this subchapter (relating to Hardship Provisions).

(b) In circumstances when a prior recipient of a loan through this Program is no longer eligible solely due to not meeting the requirement of being enrolled in an eligible high-demand credential program per §22.53(a)(2) of this subchapter (relating to Eligible Students), the student may continue to receive loans through the Program if:

(1) The student continues to be enrolled in the credential program that was used to demonstrate initial eligibility for the Program; and

(2) The student continues to meet all other eligibility criteria outlined in §22.53 of this subchapter.

§24.55. Hardship Provisions.

(a) In the event of a hardship or for other good cause, the Program Officer at a participating institution may allow an otherwise eligible student to receive a loan through this Program:

(1) while not meeting the satisfactory academic progress requirements, as defined in §22.53(a)(3) of this subchapter (relating to Eligible Students); or

(2) while enrolled beyond the time limit restrictions defined in §22.54(a) of this subchapter (relating to Discontinuation of Eligibility).

(b) Hardship conditions may include, but are not limited to:

(1) documentation of a severe illness or other debilitating condition that may affect the student's academic performance; or

(2) documentation that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance; or

(3) documentation of the birth of a child or placement of a child with the student for adoption or foster care that may affect the student's academic performance.

(c) Documentation of the hardship circumstances approved for a student to receive a loan must be kept in the student's files, and the institution must identify students approved for a loan based on a hardship to the Coordinating Board upon request.

(d) Each institution shall adopt a hardship policy under this section and have the policy available in writing in the financial aid office for public review upon request.

§24.56. Eligible High-Demand Credentials.

(a) The Coordinating Board shall determine which high-demand credentials shall be eligible for loans under the Program, in consultation with the Texas Workforce Commission, Texas Workforce Investment Council, and the Governor's Office of Economic Development and Tourism or their delegates. Eligible credentials will be reassessed and published annually on the Coordinating Board's website.

(b) Eligible credentials shall be selected based on current and projected workforce demands and the ability of students to graduate from identified programs with manageable debt, as described by §24.58(c) of this subchapter (relating to Loan Amount and Interest Rate).

(c) Selected credentials must meet measures for credentials of value to students and employers, as defined by the Coordinating Board.

§24.57. Cosigner Requirements.

(a) To be eligible to be consigner for an otherwise eligible student, a person must:

(1) be at least 21 years of age;

(2) be a United States citizen, or a permanent U.S. resident;

(3) reside in the United States or a U.S. territory;

(4) have a regular source of income; and

(5) receive a favorable credit report evaluation as defined in §24.1 of this chapter (relating to Definitions).

(b) A spouse may not act as the cosigner for the student.

§24.58. Loan Amount and Interest Rate.

(a) Minimum Loan Amount. No FORWARD loan may be authorized for less than $100.

(b) Annual Loan Limit. In no case shall the annual loan amount exceed the difference between the cost of attendance and the financial resources available to the applicant, including the applicant's scholarships, gifts, grants, and other financial aid. The student's maximum eligibility for Federal Direct Loans, except for Federal PLUS loans, must be considered by the institution as other financial aid, whether or not the student actually receives such assistance.

(c) Aggregate Loan Limit. The maximum aggregate loan amount for any eligible student shall not exceed the student's manageable debt level, as defined in §24.1 of this chapter (relating to Definitions).

(d) Interest Rate. The interest rate charged for new loans through this program shall be set from time to time by the Commissioner, shall be simple interest, and shall begin to accrue on the outstanding principal from the date of disbursement, including during periods of forbearance.

§24.59. Repayment of Loans.

(a) Repayment Period. The repayment period for a FORWARD loan shall be 10 years.

(b) Monthly Repayment Amount. The method for calculating the monthly repayment amount for loans through this Program shall be determined each biennium by the Commissioner, and shall be calculated annually based on:

(1) the borrower's income, as demonstrated through federal income tax returns or other documentation determined to be acceptable by the Coordinating Board;

(2) the borrower's monthly accrued interest on loans through the Program; and

(3) the borrower's cumulative outstanding student loan balance.

(c) Income threshold. The Coordinating Board may automatically place a borrower in forbearance when the borrower's demonstrated income is below a threshold established by the Coordinating Board in consultation with the Texas Workforce Commission.

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

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Texas Higher Education Coordinating Board
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SUBCHAPTER F. TEXAS ARMED SERVICES SCHOLARSHIPS CONVERTED TO LOANS

19 TAC §§24.70 - 24.74

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter F, §§24.70 - 24.74, concerning Texas Armed Services Scholarships Converted to Loans, previously codified in Chapter 22, Subchapter I, §§22.163 - 22.170. Specifically, these new sections will provide for the loan terms and repayment provisions for conditional scholarships offered through the Texas Armed Services Scholarship Program (TASSP) that convert to loans. The Coordinating Board is authorized by Texas Education Code, §61.9774, to adopt rules relating to the program.

Rule 24.70, Authority and Purpose, states the statutory authority and specific purpose of the subchapter, namely, to provide for the administration of TASSP scholarships that convert to loans. The provisions of this section do not represent a change in the administration of the program.

Rule 24.71, Definitions, provides definitions to terms used throughout the subchapter. The provisions of this section do not represent a change in the administration of the program.

Rule 24.72, Loan Amounts and Interest Rates, details program-specific loan terms. It is the reconstituted §22.171(a) and (b), with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.73, Repayment of Loan, specifies the repayment period and minimum monthly payment for TASSP loans. It is the reconstituted §22.171(c) and (e), with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.74, Exemption and Cancellation, describes program-specific circumstances that may lead to the cancellation of a borrower's TASSP loan. Subsection (a) mirrors language in §22.170 (which relates to the conversion of a scholarship to a loan) by delineating circumstances in which a borrower may be exempt from repayment; paragraph (1) for physical inability, and paragraph (2) allowing for exceptional circumstances. Paragraph (2) is added to align with statutory changes made in House Bill 300, 89th Texas Legislature, Regular Session.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity and program administration. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial

Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 61.9774, which provides the Coordinating Board with the authority to adopt rules relating to the Texas Armed Services Scholarship Program.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.70. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, chapter 61, subchapter FF, Texas Armed Services Scholarship Program and specifically §61.9774. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§61.9771 - 61.9776.

(b) Purpose. This subchapter establishes rules relating to the administration of the Texas Armed Services Scholarships that convert to loans. Rules relating to the administration of the Texas Armed Services Scholarship Program generally are located in chapter 22, subchapter I, of this title (relating to Texas Armed Services Scholarship Program).

§24.71. Definitions.

In addition to the words and terms defined in §24.1 of this chapter (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Loan--A Texas Armed Services Scholarship that has become a loan as outlined in §22.170 of this title (relating to Conversion of the Scholarship to a Loan).

(2) Scholarship--A conditional scholarship through the Texas Armed Services Scholarship Program.

(3) TASSP or Program--The Texas Armed Services Scholarship Program.

§24.72. Loan Amounts and Interest Rates.

(a) A Scholarship is considered a Loan on the date the recipient has failed to meet the conditions of the Scholarship described in §22.170 of this title (relating to Conversion of the Scholarship to a Loan). Each year of the Scholarship that is disbursed to the student is considered a separate Loan.

(b) Loan Amounts. The principal owed for each Loan is the amount of the Scholarship disbursed. The full amount must be repaid, plus interest accrued.

(c) Interest Rates. The interest rate for each Loan shall be the same interest rate charged for a College Access Loan at the time the Scholarship funds were disbursed.

(d) Interest Accrual. Interest shall begin to accrue on the date the Scholarship is converted to a Loan.

§24.73. Repayment of Loan.

(a) Repayment Period. The repayment period for a Loan under this subchapter shall be 15 years.

(b) Minimum Monthly Payment. Unless a lower monthly payment is authorized under §24.14 of this chapter (relating to Forbearance), a borrower's minimum monthly payment for a Loan shall be the greater of:

(1) the amount required to amortize the Loan over the course of the repayment period; or

(2) one hundred dollars ($100.00).

§24.74. Exemption and Cancellation.

In addition to the conditions for discharge of a Loan listed in §24.16 of this chapter (relating to Deceased or Disabled Borrowers or Cosigners), a recipient shall be exempt from the requirement to repay the Loan if the person is unable to meet the obligations described by §22.168(b)(2) of this title (relating to Promissory Note) solely as a result of:

(1) physical inability, verified by a physician's certification and/or other appropriate documentation to the satisfaction of the Coordinating Board; or

(2) an exceptional circumstance beyond the recipient's control, as determined by the Commissioner.

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

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General Counsel
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SUBCHAPTER G. SERVICING OF FEDERAL STUDENT LOANS

19 TAC §§24.80 - 24.86

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 24, Subchapter G, §§24.80 - 24.86, concerning Servicing of Federal Student Loans, generally addressed in previous provisions Chapter 22, Subchapters C and E. Specifically, these new sections will provide program-specific information for all of the federal student loans that are still serviced by the Coordinating Board. The Coordinating Board is authorized by Texas Education Code, §52.54, to adopt rules relating to the servicing of certain federal student loans.

Rule 24.80, Authority and Purpose, lays out the statutory authority and goal of the subchapter, to specifically address the servicing of student loans originated by the federal government. This section does not represent a change in the administration of these programs.

Rule 24.81, Applicability, specifies that the provisions of Chapter 24, Subchapter B (relating to Student Loan Servicing) do not apply to this subchapter unless otherwise stated. This section does not represent a change in the administration of these programs.

Rule 24.82, Common Provisions, provides for common servicing provisions that apply to Federal Stafford Loans (FSL), Federal Supplemental Loans for Students (FSLS), and Health Education Assistance Loans (HEAL) serviced by the Coordinating Board. This includes the reconstituted and consolidated relevant provisions of §22.53 and §22.54, with nonsubstantive edits for clarity. Also added is subsection (d), which clarifies that the provisions of §24.13 (relating to Interest Rate Adjustment for Repayment via Auto-Debit or Automated Clearing House (ACH)) do apply to these loans. The provisions of this section do not represent a change in the administration of these programs.

Rule 24.83, Federal Stafford Loan (FSL) Program, provides program-specific provisions relating to that program, specifically regarding repayment period, minimum repayment amount, and enforcement of collection on defaulted loans. Subsections (a) - (c) are the reconstituted §22.53(a)(1), §22.53(b)(1), and §22.55(b), respectively, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.84, Federal Supplemental Loans for Students (FSLS) Program, provides program-specific provisions relating to that program, specifically regarding repayment period, minimum repayment amount, and enforcement of collection on defaulted loans. Subsections (a) - (c) are the reconstituted §22.53(a)(2), §22.53(b)(2), and §22.55(b), respectively, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.85, Health Education Assistance Loan (HEAL) Program, provides program-specific provisions relating to that program, specifically regarding repayment period, minimum repayment amount, and enforcement of collection on defaulted loans. Subsections (a) - (c) are the reconstituted §22.53(a)(4), §22.53(b)(4), and §22.55(b), respectively, with nonsubstantive edits for clarity. The provisions of this section do not represent a change in the administration of the program.

Rule 24.86, Hinson-Hazlewood College Student Loans Made Before Fall Semester, 1971, and Not Subject to the Federally Insured Student Loan Program, provides provisions specific to the limited number of applicable loans serviced by the Coordinating Board. The provisions of this section are reconstituted from multiple sections in Chapter 22, Subchapter E (relating to Hinson-Hazlewood College Student Loans Made Before Fall Semester, 1971, and Not Subject to the Federally Insured Student Loan Program), with nonsubstantive revisions for clarity and elimination of redundant or unnecessary provisions. The provisions of this section do not represent a change in the servicing of these loans.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, Section 52.54, which provides the Coordinating Board with the authority to adopt rules relating to the servicing of certain federal student loans.

The proposed new sections affect Texas Administrative Code, Title 19, Part 1, Chapter 24.

§24.80. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, §52.54.

(b) Purpose. The provisions of this subchapter address the servicing, through the Hinson-Hazlewood College Student Loan Program, of student loans originated by the federal government, which the Coordinating Board is authorized to engage in by Texas Education Code, §52.41.

§24.81. Applicability.

Unless otherwise stated, the provisions of subchapter B of this chapter (relating to Student Loan Servicing) do not apply to the servicing of loans under this subchapter.

§24.82. Common Provisions.

(a) Applicability. The provisions of this section apply to the programs described in §§24.83 - 24.85 of this subchapter (relating to Federal Stafford Loan (FSL) Program, Federal Supplemental Loan for Students (FSLS) Program, and Health Education Assistance Loan (HEAL) Program, respectively). This section does not apply to loans described by §24.86 of this subchapter (relating to Hinson-Hazlewood College Student Loans Made Before Fall Semester, 1971, and Not Subject to the Federally Insured Student Loan Program).

(b) Prepayment. Loans made under this subchapter may be prepaid without penalty.

(c) Late Charges. The Coordinating Board may assess a late charge, not to exceed the lesser of five percent (5%) of the scheduled monthly payment or five dollars ($5.00), if the past due amount is not received within 20 days of the scheduled due date.

(d) The provisions of §24.13 of this chapter (relating to Interest Rate Adjustment for Repayment via Auto-Debit or Automated Clearing House (ACH)) apply to loans authorized under this subchapter.

(e) Deferments. The Coordinating Board shall grant deferments of loan repayment for FSL loans as required by law, to any borrower whose account is not in default and who makes an adequate showing of entitlement. Authorized deferments shall extend the repayment period. Interest does not accrue during periods of deferment.

(f) Forbearance. The Coordinating Board may grant periods of forbearance in accordance with the applicable statutes and rules of the applicable program.

(1) Authorized forbearances shall extend the repayment period.

(2) Interest will continue to accrue on a borrower's loans during periods of forbearance. The Coordinating Board will recalculate the borrower's minimum monthly payment after a period of forbearance to reflect the accrued interest.

(g) Application of Payments. In accordance with the terms of the promissory note, the Coordinating Board shall determine the priority order in which payments shall be applied to interest, late charges, principal, collections costs and any other charges.

(h) Deceased or Disabled Borrowers or Cosigners. Verification of death and determination of permanent and total disability of a borrower or cosigner through each program shall be made by the U.S. Secretary of Education in accordance with the governing provisions of the applicable program. Disposition of borrower and/or cosigner liability upon final verification of death and determination of permanent and total disability of a borrower or cosigner shall be made consistent with §24.15 of this chapter (relating to Deceased or Disabled Borrowers or Cosigners).

§24.83. Federal Stafford Loan (FSL) Program.

(a) Repayment Period. All loans shall be repaid in accordance with the statutes and regulations governing the Federal Family Education Loan Program.

(b) Minimum Repayment Amount. The Coordinating Board shall provide a repayment schedule in which all of a borrower's FSL loans are treated as one account, and the repayment amount shall be calculated to repay the full amount over the maximum authorized period. In no case will the minimum annual repayment on the account be less than $600.

(c) Enforcement of Collection. When a borrower defaults on a FSL account, the Coordinating Board may file a default claim with the appropriate guarantor.

§24.84. Federal Supplemental Loans for Students (FSLS) Program.

(a) Repayment Period. All loans shall be repaid in accordance with the statutes and regulations governing the Federal Family Education Loan Program.

(b) Minimum Repayment Amount. The Coordinating Board shall provide a repayment schedule in which all a borrower's FSLS loans are treated as one account, and the repayment amount shall be calculated to repay the full amount over the maximum authorized period. In no case will the minimum annual repayment on the account be less than $600.

(c) Enforcement of Collection. When a borrower defaults on a FSLS account, the Coordinating Board may file a default claim with the appropriate guarantor.

§24.85. Health Education Assistance Loan (HEAL) Program.

(a) Repayment Period. All loans shall be repaid in accordance with the statutes and regulations governing the Health Education Assistance Loan Program, authorized by the Public Health Service Act, as amended, 42 U.S.C. §§292 - 292y.

(b) Minimum Repayment Amount. The Coordinating Board shall provide a repayment schedule in which all of a borrower's HEAL loans are treated as one account, and the repayment amount shall be calculated to repay the full amount over the maximum authorized period. The minimum annual repayment shall not be less than the amount provided by 42 USCS 292(d).

(c) Enforcement of Collection. When a borrower defaults on a HEAL account, the Board may file suit in order to perfect a default claim with the appropriate guarantor.

§24.86. Hinson-Hazlewood College Student Loans Made Before Fall Semester, 1971, and Not Subject to the Federally Insured Student Loan Program.

(a) Loan Terms. Principal amounts of all authorized loans shall be repaid in installments over a period of not less than five years (unless sooner repaid) nor more than 10 years, except that the period of the loan may not exceed 15 years from the execution of the note or written agreement evidencing it.

(b) Loan Interest. The interest rate to be charged for any student loan shall be 6.0% per annum on all loans made under the Hinson-Hazlewood College Student Loan Act on or before August 31, 1969, and the interest rate to be charged for any student loan made on or after September 1, 1969, shall be seven percent (7%) per annum, and such interest shall accrue from the date of the note evidencing the loan is executed. Except for loans subject to the interest subsidy provisions of the Higher Education Act of 1965, Title IV, Part B, §428(a), as amended, and 45 Code of Federal Regulations Part 177, payment of interest by an undergraduate student shall be postponed so long as such student is enrolled in an institution of higher education for at least one-half of the normal course load, as determined by the institution, and payment of interest by a graduate or professional student shall be postponed so long as such student is enrolled in an institution of higher education and is making satisfactory progress toward the completion of his program, provided that such interest shall accrue from the date of the note evidencing the loan is executed.

(c) Interest Subsidy. Loans made pursuant to this subchapter are eligible for interest subsidy to be paid in accordance with Public Law 89-329, the Higher Education Act of 1965, and 45 Code of Federal Regulations Part 177.

(d) Repayment of Loans. Repayment of any loan and interest authorized under the Act shall be made directly to the Fund and shall be made monthly in an amount of not less than $15 or an amount to be approved by the Coordinating Board.

(e) Forbearance. The Coordinating Board may authorize a period of forbearance for a borrower under this section in accordance with §24.14 of this chapter (relating to Forbearance).

(f) Enforcement of Collection. The provisions of §24.16 of this chapter (relating to Enforcement of Collection) apply to loans described by this section.

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

Filed with the Office of the Secretary of State on August 14, 2025.

TRD-202502927
Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 427-6365

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TITLE 22. EXAMINING BOARDS

PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.1, §153.15

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.1, Definitions; and §153.15, Experience Required for Licensing.

The proposed amendments are made following TALCB's quadrennial rule review for this Chapter. The amendments add a definition for "Practicum Courses," and adds Practicum Courses approved by either the Appraiser Qualifications Board or TALCB as a type of experience that may be accepted to satisfy the experience requirements under Chapter 1103.

Kathleen Santos, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the proposed amendments. There is no adverse economic impact anticipated for local or state employment, rural communities, small businesses, or micro businesses as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact statement or Regulatory Flexibility Analysis is required.

Ms. Santos has also determined that for each year of the first five years the proposed amendments and rules are in effect the public benefits anticipated as a result of enforcing the proposed amendments will be requirements that are consistent with statutes and easier to understand, apply, and process. Additionally, the rules recognize another avenue for gaining experience that is an alternative to the traditional supervisor/trainee model.

Growth Impact Statement:

For each year of the first five years the proposed amendments and rules are in effect the amendments and rules will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;

- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;

- create a new regulation;

- expand, limit or repeal an existing regulation; and

- increase the number of individuals subject to the rule's applicability.

For each year of the first five years the proposed amendments are in effect, there is no anticipated impact on the state's economy.

Comments on the proposed amendments may be submitted to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. Comments may also be submitted electronically at https://www.talcb.texas.gov/agency-information/rules-and-laws/comment-on-proposed-rules. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of a provider or course for qualifying or continuing education.

The statute affected by these amendments is Chapter 1103 Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§153.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) ACE--Appraiser Continuing Education.

(2) Act--The Texas Appraiser Licensing and Certification Act.

(3) Administrative Law Judge--A judge employed by the State Office of Administrative Hearings (SOAH).

(4) Analysis--The act or process of providing information, recommendations or conclusions on diversified problems in real estate other than estimating value.

(5) Applicant--A person seeking a certification, license, approval as an appraiser trainee, or registration as a temporary out-of-state appraiser from the Board.

(6) Appraisal practice--Valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.

(7) Appraisal report--A report as defined by and prepared under the USPAP.

(8) Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.

(9) Appraisal Subcommittee--The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council or its successor.

(10) Appraiser Qualifications Board--The Appraiser Qualifications Board (AQB) of the Appraisal Foundation, or its successor.

(11) Appraiser trainee--A person approved by the Board to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the supervisory appraiser.

(12) Board--The Texas Appraiser Licensing and Certification Board.

(13) Certified General Appraiser--A certified appraiser who is authorized to appraise all types of real property.

(14) Certified Residential Appraiser--A certified appraiser who is authorized to appraise one-to-four unit residential properties without regard to value or complexity.

(15) Classroom course--A course in which the instructor and students interact face to face, in real time and in the same physical location.

(16) Classroom hour--Fifty minutes of instruction out of each sixty-minute segment of actual classroom session time.

(17) Client--Any party for whom an appraiser performs an assignment.

(18) College--Junior or community college, senior college, university, or any other postsecondary educational institution established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other regional accrediting associations, or is a candidate for such accreditation.

(19) Executive Director--The Executive Director of the Texas Appraiser Licensing and Certification Board.

(20) Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.

(21) Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

(22) Continuing education cycle--the period in which a license holder must complete continuing education as required by the AQB.

(23) Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

(24) Day--A calendar day unless clearly indicated otherwise.

(25) Distance education--Any educational process based on the geographical separation of student and instructor, as defined by the AQB. Distance education includes synchronous delivery, when the instructor and student interact simultaneously online; asynchronous delivery, when the instructor and student interaction is non-simultaneous; and hybrid or blended course delivery that allows for both in-person and online interaction, either synchronous or asynchronous.

(26) Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

(27) Federal financial institution regulatory agency--The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successors of any of those agencies.

(28) Federally related transaction--Any real estate-related transaction that requires the services of an appraiser and that is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

(29) Foundation--The Appraisal Foundation (TAF) or its successor.

(30) Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the Board.

(31) License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

(32) License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

(33) Licensed Residential Appraiser--A licensed appraiser who is authorized to appraise non-complex one-to-four residential units having a transaction value less than $1 million and complex one-to-four residential units having a transaction value less than $400,000.

(34) Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

(35) Market analysis--A study of market conditions for a specific type of property.

(36) Nonresidential real estate appraisal course--A course with emphasis on the appraisal of nonresidential real estate properties which include, but are not limited to, income capitalization, income property, commercial appraisal, rural appraisal, agricultural property appraisal, discounted cash flow analysis, subdivision analysis and valuation, or other courses specifically determined by the Board.

(37) Nonresidential property--A property which does not conform to the definition of residential property.

(38) Party--The Board and each person or other entity named or admitted as a party.

(39) Person--Any individual, partnership, corporation, or other legal entity.

(40) Personal property--Identifiable tangible objects and chattels that are considered by the general public as being "personal," for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery and equipment; all tangible property that is not classified as real estate.

(41) Petitioner--The person or other entity seeking an advisory ruling, the person petitioning for the adoption of a rule, or the party seeking affirmative relief in a proceeding before the Board.

(42) Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, makes claims, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.

(43) Practical Applications of Real Estate Appraisal (PAREA)--Training Programs approved by the AQB that utilize simulated experience training and serve as an alternative to the traditional Supervisor/Trainee experience model.

(44) Practicum Courses--Training programs that utilize a combination of education and experience that includes generally applicable methods of appraisal practice for the credential category with content and assignment requirements established by the AQB. It may serve as an alternative to the traditional Supervisor/Trainee experience model.

(45) [~~(44)~~] Qualifying real estate appraisal course--Those courses approved by the Appraiser Qualifications Board as qualifying education.

(46) [~~(45)~~] Real estate--An identified parcel or tract of land, including improvements, if any.

(47) [~~(46)~~] Real estate appraisal experience--Valuation services performed as an appraiser or appraiser trainee by the per-

son claiming experience credit. Significant real property appraisal experience requires active participation; mere observation of another appraiser's work is not real estate appraisal experience.

(48) [~~(47)~~] Real estate-related financial transaction--Any transaction involving: the sale, lease, purchase, investment in, or exchange of real property, including an interest in property or the financing of property; the financing of real property or an interest in real property; or the use of real property or an interest in real property as security for a loan or investment including a mortgage-backed security.

(49) [~~(48)~~] Real property--The interests, benefits, and rights inherent in the ownership of real estate.

(50) [~~(49)~~] Record--All notices, pleadings, motions and intermediate orders; questions and offers of proof; objections and rulings on them; any decision, opinion or report by the Board; and all staff memoranda submitted to or considered by the Board.

(51) [~~(50)~~] Report--Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

(52) [~~(51)~~] Residential property--Property that consists of at least one but not more than four residential units.

(53) [~~(52)~~] Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

(54) [~~(53)~~] Supervisory Appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The supervisory appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.

(55) [~~(54)~~] Trade Association--A nonprofit voluntary member association or organization:

(A) whose membership consists primarily of persons who are licensed as appraisers and pay membership dues to the association or organization;

(B) that is governed by a board of directors elected by the members; and

(C) that subscribes to a written code of professional conduct or ethics.

(56) [~~(55)~~] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(57) [~~(56)~~] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.

§153.15. Experience Required for Licensing.

(a) Applicants for a license must meet all experience requirements established by the AQB.

(b) The Board awards experience credit in accordance with current criteria established by the AQB and in accordance with the provisions of the Act specifically relating to experience requirements. An hour of experience means 60 minutes expended in one or more of the acceptable appraisal experience areas. Calculation of the hours of experience is based solely on actual hours of experience. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience. Any one or a combination of the following categories may be acceptable for satisfying the applicable experience requirement:

(1) An appraisal or appraisal analysis when performed in accordance with Standards 1 and 2 and other provisions of the USPAP edition in effect at the time of the appraisal or appraisal analysis.

(2) Mass appraisal, including ad valorem tax appraisal that:

(A) conforms to USPAP Standards 5 and 6; and

(B) demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

(3) Appraisal review that:

(A) conforms to USPAP Standards 3 and 4; and

(B) demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

(4) Appraisal consulting services, including market analysis, cash flow and/or investment analysis, highest and best use analysis, and feasibility analysis when it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standards 1 and 2 and using appropriate methods and techniques applicable to appraisal consulting.

(5) "Practical Applications of Real Estate Appraisal" (PAREA) programs approved by the AQB.

(6) "Practicum Courses" approved by the AQB or the Board.

(c) Experience credit may not be awarded for teaching appraisal courses.

(d) Public Information Act. All information and documentation submitted to the Board in support of an application for license or application to upgrade an existing license, including an applicant's experience log, experience certification, copies of appraisals and work files, may be subject to disclosure under the Public Information Act, Chapter 552, Texas Government Code, unless an exception to disclosure applies.

(e) Applicants claiming experience credit under subsection (b)(1) - (4) of this section must submit a Board-approved Appraisal Experience Log that lists each appraisal assignment or other work for which the applicant is seeking credit and an Appraisal Experience Certification. The Experience Log must include:

(1) the full amount of experience hours required for the license type sought, as required by the AQB;

(2) the required number of hours of experience required for each property type as required by the AQB; and

(3) the minimum length of time over which the experience is claimed, as required by the AQB.

(f) The Board may grant experience credit for work listed on an applicant's Appraisal Experience Log that:

(1) complies with the USPAP edition in effect at the time of the appraisal;

(2) is verifiable and supported by:

(A) work files in which the applicant is identified as participating in the appraisal process; or

(B) appraisal reports that:

(i) name the applicant in the certification as providing significant real property appraisal assistance; or

(ii) the applicant has signed;

(3) was performed when the applicant had legal authority to do so; and

(4) complies with the acceptable categories of experience established by the AQB and stated in subsection (b) of this section.

(g) Consistent with this chapter, upon review of the applicant's real estate appraisal experience, the Board may grant a license or certification contingent upon completion of additional education, experience or mentorship.

(h) Upon review of an applicant's Appraisal Experience Log, the Board may, at its sole discretion, grant experience credit for the hours shown on an applicant's log even if some work files have been destroyed because of the 5-year records retention period in USPAP has passed.

(i) The Board may grant experience credit for applicants claiming experience credit under subsection (b)(5) of this section that submit a valid certificate of completion from an AQB approved PAREA program.

(j) The Board may grant experience credit for applicants claiming experience credit under subsection (b)(6) of this section that submit a valid certificate of completion from an AQB or Board approved Practicum course.

(k) [~~(j)~~] The Board may, at its sole discretion, accept evidence other than an applicant's Appraisal Experience Log and Appraisal Experience Certification to demonstrate experience claimed by an applicant.

(l) [~~(k)~~] The Board must verify the experience claimed by each applicant generally complies with USPAP.

(1) Verification may be obtained by:

(A) requesting copies of appraisals and all supporting documentation, including the work files; and

(B) engaging in other investigative research determined to be appropriate by the Board.

(2) If the Board requests documentation from an applicant to verify experience claimed by an applicant, the applicant has 60 days to provide the requested documentation to the Board.

(A) In response to an initial request for documentation to verify experience, an applicant must submit a copy of the relevant appraisals, but is not required to submit the associated work files at that time.

(B) If in the course of reviewing the submitted appraisals, the Board determines additional documentation is necessary to verify general compliance with USPAP, the Board may make additional requests for supporting documentation.

(3) Experience involved in pending litigation.

(A) The Board will not request work files from an applicant to verify claimed experience if the appraisal assignments are identified on the experience log submitted to the Board as being involved in pending litigation.

(B) If all appraisal assignments listed on an applicant's experience log are identified as being involved in pending litigation, the Board may audit any of the appraisal assignments on the applicant's experience log, regardless of litigation status, with the written consent of the applicant and the applicant's supervisory appraiser.

(4) Failure to comply with a request for documentation to verify experience, or submission of experience that is found not to comply with the requirements for experience credit, may result in denial of a license application.

(5) A license holder who applies to upgrade an existing license and submits experience that does not comply with USPAP may also be subject to disciplinary action up to and including revocation.

(m) [~~(l)~~] Unless prohibited by Tex. Occ. Code §1103.460, applicable confidentiality statutes, privacy laws, or other legal requirements, or in matters involving alleged fraud, Board staff shall use reasonable means to inform supervisory appraisers of Board communications with their respective trainees.

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

Filed with the Office of the Secretary of State on August 14, 2025.

TRD-202502934
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 936-3088

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22 TAC §153.6

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.6, Military Service Member, Veteran, or Military Spouse Applications.

The proposed amendments to §153.6 are made as a result of statutory changes enacted by the 89th Legislature in HB 5629, which becomes effective September 1, 2025. HB 5629 modifies several provisions in Chapter 55 of the Texas Occupations Code relating to occupational licensing of military service members, military veterans, and military spouses. The bill modifies the language to require a state agency to issue a license to an applicant that is a military service member, veteran, or spouse and who holds a current license issued by another state that is similar in scope of practice to the license being sought and is in good standing (a defined term) with that state's licensing authority. The bill also modifies the procedure for out-of-state license recognition under §55.0041, Occupations Code. Finally, the bill changes the time period within which a state agency must issue the license, from 30 days to 10 business days from the filing of the application. The amendments to §153.6 are made to reflect these changes in accordance with the reciprocity process in Chapter 1103 Occupations Code.

Kathleen Santos, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the proposed amendments. There is no adverse economic impact anticipated for local or state employment, rural communities, small businesses, or micro businesses as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact statement or Regulatory Flexibility Analysis is required.

Ms. Santos has also determined that for each year of the first five years the proposed amendments and rules are in effect, the

public benefits anticipated as a result of enforcing the proposed amendments will be greater clarity in the rules and consistency with applicable law.

Growth Impact Statement:

For each year of the first five years the proposed amendments and rules are in effect the amendments and rules will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;

- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;

- create a new regulation;

- expand, limit or repeal an existing regulation; and

- increase the number of individuals subject to the rule's applicability.

- positively or adversely affect the state's economy

For each year of the first five years the proposed amendments are in effect, there is no anticipated impact on the state's economy.

Comments on the proposed amendments may be submitted to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. Comments may also be submitted electronically at https://www.talcb.texas.gov/agency-information/rules-and-laws/comment-on-proposed-rules. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related to certificates and licenses that are consistent with applicable federal law and guidelines adopted by the AQB; §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board; and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct. The amendments are also proposed under Texas Occupations Code, §§55.004 and 55.0041, including as amended by HB 5629, which require the issuance of licenses under certain parameters to military service members, military veterans, or military spouses.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§153.6. Military Service Member, Military Veteran, or Military Spouse Applications.

(a) Definitions.

(1) "Good standing" has the meaning assigned by §55.0042, Occupations Code.

(2) [~~(1)~~] "Military service member" has the meaning assigned by §55.001(4), Occupations Code. [~~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 Section 437.001, Government Code, or similar military service of another state.~~]

(3) [~~(2)~~] "Military spouse" has the meaning assigned by §55.001(5), Occupations Code. [~~means a person who is married to a military service member.~~]

(4) [~~(3)~~] "Military veteran" has the meaning assigned by §55.001(6), Occupations Code. [~~"Veteran" means a person who has served as a military service member and who was discharged or released from active duty.~~]

(b) The purpose of this section is to establish procedures authorized or required by Texas Occupations Code Chapter 55 and is not intended to modify or alter rights or legal requirements that may be provided under federal law, Chapter 1103 of the Occupations Code, or requirements established by the AQB.

(c) Expedited application.

(1) The Board will process an application for a military service member, military veteran, or military spouse on an expedited basis.

(2) If an applicant under this section holds a current license issued by a state other than Texas that is similar in scope of practice to the [~~another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the~~] license or certification issued in this state, the Board will issue the license not later than the 10th business [~~30th~~] day after receipt of the application.

(d) Waiver of fees.

(1) The Board will waive the license application fee and examination fees for an applicant who is a military service member, military veteran, or military spouse.[~~:~~]

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

[~~(B) a 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 or his or her designee may waive the application fee of a military service member, military veteran, or military spouse who is not currently licensed, but within the five years preceding the application date held a license in this state and applies for reinstatement in accordance with subsection (f)(2) of this section.

(e) Credit for military experience.

(1) For an applicant who is a military service member, [~~or~~] military veteran, or military spouse the Board shall credit any verifiable military service, training, or education toward the licensing requirements, other than an examination requirement.

(2) The Board shall award credit under this subsection consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

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

(f) Reciprocity and reinstatement.

(1) A [~~For a~~] military service member, military veteran, or military spouse who holds a current license issued by a state other than Texas that is similar in scope of practice to the [~~another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the~~] license in this state who wants to practice in Texas may apply by submitting an application for license by reciprocity and any required supplemental documents for military service members,

military veterans, or military spouses, using a process acceptable to the Board.

(2) A [~~For a~~] military service member, military veteran, or military spouse who is not currently licensed, but within the five years preceding the application date held a license in this state who wants to practice in Texas may apply by submitting [~~submit~~] an application for reinstatement and any required supplemental documents for military service members, military veterans, or military spouses, using a process acceptable to the Board.

[~~(3) For a military service member and military spouse who wants to practice in Texas in accordance with 55.0041, Occupations Code:~~]

[~~(A) the Board will issue a license by reciprocity if:~~]

~~*(i)* the applicant submits:~~]

~~*(I)* notice to the Board of the applicant's intent to practice in Texas by submitting an application for reciprocity and any supplemental document for military service members or military spouses; and~~]

~~*(II)* a copy of the member's military identification card; and~~]

~~*(ii)* no later than 30 days upon receipt of the documents required under subparagraph (A) of this paragraph, the Board verifies that the member or spouse is currently licensed and in good standing with the other state or jurisdiction.~~]

[~~(B) a person authorized to practice in this state under this subsection must comply with all other laws and regulations applicable to the license.~~]

[~~(C) The event of a divorce or similar event that affects a person's status as a military spouse shall not affect the validity of a license issued under this subsection.~~]

(g) Recognition of Out-Of-State License of Military Service Members and Military Spouses

(1) A military service member or military spouse who holds a current certificate or license issued by a state other than Texas that is similar in scope or practice to the certificate or license issued in Texas and is in good standing with the state's licensing authority who wants to practice in Texas in accordance with 55.0041, Occupations Code, must submit an application using a process acceptable to the Board and include:

(A) a copy of the military orders showing relocation to this state;

(B) if the applicant is a military spouse, a copy of the military spouse's marriage license; and

(C) a notarized affidavit affirming under penalty of perjury that:

(i) the applicant is the person described and identified in the application;

(ii) all statements in the application are true, correct, and complete;

(iii) the applicant understands that the scope of practice for the applicable license in this state and will not perform outside of the scope of practice; and

(iv) the applicant is in good standing in each state in which the applicant holds or has held an applicable license.

(2) Not later than the 10th business day after the date the Board receives an application under this subsection, the Board will notify the applicant that:

(A) the Board recognizes the applicant's out-of-state license and will issue a license by reciprocity;

(B) the application is incomplete; or

(C) the Board is unable to recognize the applicant's out-of-state license because the Board does not issue a license similar in scope of practice to the applicant's license.

(3) A person authorized to practice in this state under this subsection must comply with all other laws and regulations applicable to the license.

(4) In the event of a divorce or similar event that affects a persons' status as a military spouse, the former spouse may continue to practice for three years from the date the spouse submitted the application under this subsection.

(5) In determining which states issue licenses similar in scope of practice to those issued by the Board, the Board will consider the authorized activities under the applicable license and the criteria adopted by the AQB.

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

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Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
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For further information, please call: (512) 936-3088

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22 TAC §153.19

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.19, Licensing for Persons with Criminal History and Fitness Determination,

The proposed amendments are made as a result of statutory changes enacted by the 89th Legislature in SB 1080, which became effective on May 27, 2025. SB 1080 modified several provisions of Chapter 53 of the Texas Occupations Code relating to the revocation of an occupational license from certain license holders and the issuance of an occupational license to certain applicants with criminal convictions. Additionally, the proposed change is made as a result of the agency's license management system project. Because of this project, users will be able to provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

Kathleen Santos, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the proposed amendments. There is no adverse economic impact anticipated for local or state employment, rural communities, small businesses, or micro businesses as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the pro-

posed amendments. Accordingly, no Economic Impact statement or Regulatory Flexibility Analysis is required.

Ms. Santos has also determined that for each year of the first five years the proposed amendments and rules are in effect, the public benefit anticipated as a result of enforcing the proposed amendments will be greater clarity in the rules and consistency with applicable law.

Growth Impact Statement:

For each year of the first five years the proposed amendments and rules are in effect the amendments and rules will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;

- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;

- create a new regulation;

- expand, limit or repeal an existing regulation; and

- increase the number of individuals subject to the rule's applicability.

- Positively or adversely affect the state's economy.

For each year of the first five years the proposed amendments are in effect, there is no anticipated impact on the state's economy.

Comments on the proposed amendments may be submitted to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. Comments may also be submitted electronically at https://www.talcb.texas.gov/agency-information/rules-and-laws/comment-on-proposed-rules. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct. The amendments are also proposed under Texas Occupations Code

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§153.19. Licensing for Persons with Criminal History and Fitness Determination.

(a) Subject to the requirements of Chapter 53, Occupations Code, no [~~No~~] currently incarcerated individual is eligible to obtain or renew a license. A person's license will be revoked upon the person's incarceration following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory suspension.

(b) The Board may suspend or revoke an existing valid license, disqualify an individual from receiving a license, deny to a person the opportunity to be examined for a license or deny any application for a license, if the person has been convicted of a felony, had their felony probation revoked, had their parole revoked, or had their mandatory supervision revoked. Any such action may be taken after consideration of the required factors in Chapter 53, Occupations Code and this section.

(c) A license holder must conduct himself or herself with honesty, integrity, and trustworthiness. After considering the required factors in Chapter 53, Occupations Code, the Board determines that a conviction or deferred adjudication deemed a conviction under Chapter 53, Occupations Code, of the following crimes to be directly related to the duties and responsibilities of a certified general or certified residential appraiser, a licensed appraiser or appraiser trainee:

(1) offenses involving fraud or misrepresentation;

(2) offenses against real or personal property belonging to another;

(3) offenses against public administration, including tampering with a government record, witness tampering, perjury, bribery, and corruption;

(4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law; and

(5) offenses of attempting or conspiring to commit any of the foregoing offenses.

(d) When determining whether a conviction of a criminal offense not listed in subsection (c) of this section directly relates to the duties and responsibilities of a licensed occupation regulated by the Board, the Board considers:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;

(4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and

(5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

(e) When determining the present fitness of an applicant or license holder who has been convicted of a crime, the Board also considers:

(1) the extent and nature of the person's past criminal activity;

(2) the person's age at the time the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the person's conduct and work activity before and after the criminal activity;

(5) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision;

(6) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(7) other evidence of the applicant's or license holder's present fitness including letters of recommendation.

(f) To the extent possible, it is the applicant's or license holder's responsibility to obtain and provide the recommendations described in subsection (e)(7) of this section.

(g) When determining a person's fitness to perform the duties and discharge the responsibilities of a licensed occupation regulated by the Board, the Board does not consider an arrest that did not result in a conviction or placement on deferred adjudication community supervision.

(h) Fitness Determination. Before applying for a license, a person may request the Board to determine if the prospective applicant's fitness satisfies the Board's requirements for licensing by submitting a request using a process acceptable to [~~the request form approved by~~] the Board and paying the required fee. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for a license.

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

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22 TAC §153.42, §153.43

The Texas Appraiser Licensing and Certification Board (TALCB) proposes new rules 22 TAC §153.42 and §153.43. The proposed new rule §153.42 outlines the requirements and approval process for Practicum Course Providers and Practicum Courses; and new rule §153.43 which outlines compliance procedures and prohibited activity of Practicum Providers.

Kathleen Santos, General Counsel, has determined that for the first five-year period the proposed new rules are in effect, there will be no fiscal implications for the state or units of local government as a result of enforcing or administering the proposed sections. There is no adverse economic impact anticipated for local or state employment, rural communities, small businesses, or micro businesses as a result of implementing the proposed new rules. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rules. Accordingly, no Economic Impact statement or Regulatory Flexibility Analysis is required.

Ms. Santos has also determined that for each year of the first five years the proposed new rules are in effect the public benefits anticipated as a result of enforcing the rules will be requirements that are consistent with statutes and easy to understand, apply, and process.

Growth Impact Statement:

For each year of the first five years the rules are in effect the rules will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;

- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;

- create a new regulation;

- expand, limit or repeal an existing regulation; and

- increase the number of individuals subject to the rule's applicability.

For each year of the first five years the rules are in effect, there is no anticipated impact on the state's economy.

Comments on the proposed new rules may be submitted to Kathleen Santos, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. Comments may also be submitted electronically at https://www.talcb.texas.gov/agency-information/rules-and-laws/comment-on-proposed-rules. The deadline for comments is 30 days after publication in the *Texas Register*.

The new rules are proposed under Texas Occupations Code §1103.151, which authorizes TALCB to adopt rules related certifying or licensing an appraiser or appraiser trainee and qualifying education and experience required for certifying or licensing an appraiser or appraiser trainee that are consistent with applicable federal law and guidelines recognized by the Appraiser Qualifications Board (AQB); §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB; and §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of a provider or course for qualifying or continuing education.

The statute affected by these new rules is Chapter 1103 Texas Occupations Code. No other statute, code or article is affected by the proposal.

§153.42. Approval of Practicum Providers and Courses.

(a) Definitions. The following words and terms shall have the following meanings in this section, unless the context clearly indicates otherwise.

(1) Applicant--A person seeking approval to be a Practicum Course provider.

(2) Practicum Course provider--Any person approved by the Board or the AQB that offers a Practicum course for which experience credit may be granted by the Board to a license holder.

(b) Approval of Practicum Course Providers.

(1) A person seeking to offer a Practicum Course must:

(A) file an application using a process acceptable to the Board, with all required documentation; and

(B) maintain a fixed office in the state of Texas or designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas which the Practicum Course provider is required to maintain by this subchapter.

(2) The Board may:

(A) request additional information be provided to the Board relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information within 60 days from the Board's request.

(3) Standards for approval. To be approved by the Board to offer a Practicum course, an applicant must satisfy the Board as to the applicant's ability to administer courses with competency, honesty, trustworthiness and integrity. If an applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant.

(4) Approval notice. An applicant shall not act as or represent itself to be an approved Practicum Course provider until the applicant has received written notice of the approval from the Board.

(5) Period of initial approval. The initial approval of a Practicum Course provider is valid for two years.

(6) Disapproval.

(A) If the Board determines that an applicant does not meet the standards for approval, the Board will provide written notice of disapproval to the applicant.

(B) The disapproval notice, applicant's request for a hearing on the disapproval, and any hearing are governed by the Administrative Procedure Act, Chapter 2001, Government Code, and Chapter 157 of this title (relating to Rules Relating to Practice and Procedure). Venue for any hearing conducted under this section shall be in Travis County.

(7) Renewal.

(A) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for renewal for another two-year period.

(B) Approval or disapproval of a renewal application shall be subject to the standards for initial applications for approval set out in this section.

(C) The Board may deny an application for renewal if the provider is in violation of a Board order.

(c) Application for approval of Practicum courses. This subsection applies to appraiser education providers seeking to offer Practicum courses.

(1) For each Practicum course an applicant intends to offer, the applicant must file an application using a process acceptable to the Board, with all required documentation; and

(2) A provider may file a single application for a Practicum course offered through multiple delivery methods.

(3) A provider who seeks approval of a new delivery method for a currently approved Practicum course must submit a new application and pay all required fees.

(4) The Board may:

(A) request additional information be provided to the Board relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information within 60 days from the Board's request.

(5) Standards for Practicum Course approval.

(A) To be approved by the Board, the Practicum Course must:

(i) include all design and content requirements of the AQB for Practicum Courses as outlined in the Criteria;

(ii) include the generally applicable methods of appraisal practice for the credential category; and

(iii) require participants to possess all qualifying education for the credential category for which the practicum course is intended to satisfy the experience requirement prior to commencement of the practicum course.

(B) The applicant must demonstrate:

(i) how the course includes generally applicable methods of appraisal practice for the credential category;

(ii) the course content includes time spent on the appraisal process;

(iii) the hours of instruction and documented research and analysis are sufficient to meet the experience requirements of the credential category;

(iv) the practicum course is reproduceable and replicable; and

(v) the course content is current and accurate.

(C) The course must be delivered by one of the following delivery methods:

(i) classroom delivery; or

(ii) distance education.

(D) The course design and delivery mechanism for asynchronous content, including the asynchronous portion of hybrid courses must be approved by an AQB approved organization.

(6) Approval notice.

(A) A provider cannot offer a Practicum course until the provider has received written notice of the approval from the Board.

(B) A Practicum course expires two years from the date of approval. Providers must reapply and meet all current requirements of this section to offer the course for another two years.

(d) Approval of a Practicum course currently approved by the AQB.

(1) To obtain Board approval of a Practicum Course currently approved by the AQB, the applicant must:

(A) be currently approved by the Board as a Practicum provider;

(B) file an application using a process acceptable to the Board, with all required documentation; and

(2) If approved to offer the Practicum course, the provider must offer the course as approved by the AQB, using all materials required for the course.

(3) Any course approval issued under this subsection expires the earlier of two years from the date of Board approval or the remaining term of approval granted by the AQB.

(e) Responsibilities and Operations of Practicum Providers.

(1) Security and Maintenance of Records.

(A) A Practicum course provider shall maintain:

(i) adequate security against forgery for official completion documentation required by this subsection;

(ii) a records retention policy requiring that all records are kept for a minimum of five (5) years from the date a student completes, withdraws from, or is removed from the course;

(B) All records may be maintained electronically but must be in a common format that is legible and easily printed or viewed without additional manipulation or special software.

(2) Changes in Ownership or Operation of an approved Practicum provider.

(A) An approved Practicum provider shall obtain approval of the Board at least 30 days in advance of any material change in the operation of the provider, including but not limited to changes in:

(i) ownership;

(ii) management; and

(iii) the location of main office and any other locations where courses are offered.

(B) An approved provider requesting approval of a change in ownership shall submit a request using a process acceptable to the Board for each proposed new owner who would hold at least a 10% interest in the provider.

(f) Non-compliance.

(1) If the Board determines that a Practicum course or provider no longer complies with the requirements for approval, the Board may suspend or revoke approval for the course or provider.

(2) Proceedings to suspend or revoke approval of a Practicum course or provider shall be conducted in accordance with §153.43 of this title (relating to Providers and Courses: Compliance and Enforcement).

§153.43. Providers and Courses: Compliance and Enforcement.

(a) Audits. Board staff may:

(1) conduct on-site audits without prior notice to a provider; and

(2) enroll and attend a course without identifying themselves as employees of the Board for purposes of auditing a course.

(b) Audit reports.

(1) After conducting an audit, Board staff will prepare an audit report and send a copy of the report to the provider who is the subject of the audit.

(2) If staff identifies deficiencies in an audit report, the provider will be given a reasonable opportunity to cure the deficiencies.

(3) An audit report indicating noncompliance with AQB requirements, the Act, or Board Rules may be referred for enforcement and treated as a written complaint against the provider if probable cause exists to believe the noncompliance involves:

(A) gross negligence;

(B) knowledge or intent; or

(C) continued noncompliance after notice of the audit report and a reasonable opportunity to cure it voluntarily.

(c) Reasonable Opportunity to Cure. For purposes of this section, a reasonable opportunity to cure means 30 days from the date a provider receives the audit report.

(d) Extensions of time. The Board may grant a request for an extension of time to cure deficiencies if the provider:

(1) submits the request in writing; and

(2) demonstrates progress towards curing the deficiencies.

(e) Complaints, investigations and hearings.

(1) The Board will investigate complaints against providers or that allege violations of the AQB requirements, the Act, or Board Rules.

(2) Complaints must be in writing, and the Board may not initiate an investigation, or take action against a provider, based on an anonymous complaint.

(3) Board staff may initiate a complaint for any violation of AQB requirements, the Act, or Board Rules, including a complaint against a provider, if a document submitted to the Board provides reasonable cause to believe a violation occurred.

(4) The Board shall provide a copy of the complaint the provider named in the complaint.

(5) Proceedings against a provider will be conducted in the manner required by the Act, the Administrative Procedure Act, Chapter 2001, Government Code, and Chapter 157 of this title. Venue for any hearing or proceeding conducted under this section will be in Travis County.

(f) Cooperation with audit or complaint investigation. A provider shall provide records in his or her possession for examination by the Board or provide such information requested by the Board not later than the 20th day after the date of receiving a request for examination of records or information.

(g) Grounds for disciplinary action against an approved provider.

(1) The following acts committed by a provider are grounds for disciplinary action by the Board:

(A) procuring or attempting to procure approval for a provider or course by fraud, misrepresentation or deceit, or by making a material misrepresentation of fact in an application filed with the Board;

(B) making a false representation to the Board, either intentionally or negligently, that a person attended a course or a portion of a course for which credit was awarded, that a person completed an examination, or that a person completed any other requirement for course credit;

(C) aiding or abetting a person to circumvent the requirements for attendance established by the Board, the completion of any examination, or any other requirement for course credit;

(D) failing to provide, not later than the 20th day after the date of a request, information requested by the Board as a result of a complaint alleging a violation of AQB requirements, the Act, or Board Rules;

(E) making a materially false statement to the Board in response to a request from the Board for information relating to a complaint against the provider; or

(F) disregarding or violating an AQB requirement or provision of the Act or Board Rules.

(G) engaging in any other activity that relates to providing or administering a Practicum Course that the Board, in its discretion, believes warrants a suspension or revocation;

(2) The Board may initiate a complaint against a provider if the Board receives a complaint, or is presented with other evidence acceptable to the Board alleging that a provider has failed to:

(A) follow the curriculum standards required by the AQB or Board Rules; or

(B) meet the course delivery requirements required by the AQB or Board Rules.

(3) If after an investigation the Board determines that a provider engaged in any of the acts listed in this subsection, or failed to follow the curriculum standards or course delivery requirements of the AQB or Board Rules, the Board may take one or more of the following disciplinary actions against a provider:

(A) reprimand;

(B) impose an administrative penalty; or

(C) suspend or revoke approval of a provider or a Practicum course offered by the provider; or

(D) Require promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas;

(h) Probation. The Board may probate an order of suspension or revocation issued under this section upon reasonable terms and conditions.

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

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PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 531. CANONS OF PROFESSIONAL ETHICS AND CONDUCT

22 TAC §531.20

The Texas Real Estate Commission (TREC) proposes an amendment to 22 TAC §531.20, Information About Brokerage Services.

The proposed changes to §531.20 and the form adopted by reference are made to reflect statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. Currently, section 1101.558 of the Texas Occupations Code specifies certain information required to be in a notice license holders provide to consumers called the Information About Brokerage Services Notice (IABS). This section further requires the Commission to prescribe by rule the specific text of the IABS. SB 1968 adds additional information that must be described in the IABS: the basic obligations a broker has to a party to a real estate transaction that the broker does not represent. As a result, the language in the IABS has been updated to reflect changes as a result of SB 1968 and the form number listed in §531.20 has been updated.

In addition to these proposed changes, the description of the contact information has been updated to better reflect current terminology.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendment. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendment. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be increased consumer awareness regarding a license holder's duties and obligations to consumers of real estate brokerage services.

For each year of the first five years the proposed amendment is in effect the amendment will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed 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 amendment is also proposed under Texas Occupations Code, §1101.558, which requires the Commission to prescribe the text of the IABS notice.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendment.

§531.20. Information About Brokerage Services.

(a) The Commission adopts by reference the Information About Brokerage Services Notice, TREC No. IABS 1-2 [1-1] (IABS

Notice). The IABS Notice 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:

(1) a link to a completed IABS Notice in a readily noticeable place on the homepage of each business website, labeled:

(A) "Texas Real Estate Commission Information About Brokerage Services", in at least 10 point font; or

(B) "TREC Information About Brokerage Services", in at least 12 point font; and

(2) the completed IABS Notice at the first substantive communication as required under §1101.558, Texas Occupations Code.

(c) For purposes of §1101.558, Texas Occupations Code, the completed IABS Notice can be provided:

(1) by personal delivery by the license holder;

(2) by first class mail or overnight common carrier delivery service;

(3) in the body of an email; or

(4) as an attachment to an email, or a link within the body of an email, with a specific reference to the IABS Notice in the body of the email.

(d) The link to a completed IABS Notice may not be in a footnote or signature block in an email.

(e) 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.

(f) For purposes of providing the link required under subsection (b)(1) 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.

(g) License holders may reproduce the IABS Notice published by the Commission, provided that the text of the IABS Notice is copied verbatim and the spacing, borders and placement of text on the page must appear to be identical to that in the published version of the IABS Notice, except that the Broker Contact Information section may be prefilled.

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

Filed with the Office of the Secretary of State on August 14, 2025.

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Abby Lee
General Counsel
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For further information, please call: (512) 936-3057

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CHAPTER 535. GENERAL PROVISIONS
SUBCHAPTER A. DEFINITIONS

22 TAC §535.1

The Texas Real Estate Commission (TREC) proposes an amendment to 22 TAC §535.1, Definitions, in Chapter 535, General Provisions.

The proposed change to 22 TAC §535.1 is made to implement statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 requires that associated brokers-also defined by the bill-provide the Commission the name of the broker they associate with and allows the Commission, through rulemaking, to provide notice of a complaint to another license holder associated with the respondent. As a result, the same definition found in SB 1968 is added to the §535.1 and the subsections are renumbered accordingly.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendment. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendment. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

For each year of the first five years, the proposed amendment is in effect the rule will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

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

§535.1. Definitions.

The following terms and phrases, when used in this chapter, have the following meanings unless the context clearly indicates otherwise.

(1) Act--Chapter 1101, Texas Occupations Code.

(2) Associated broker--A real estate broker who associates with and is paid through another broker under a relationship that is intended to be a continuous relationship, including as an employee or an ongoing independent contractor.

(3) Business entity--A domestic or foreign corporation, limited liability company, partnership or other entity authorized under the Texas Business Organizations Code to engage in real estate brokerage business in Texas and required to be licensed under the Act.

(4) [~~(3)~~] Chapter 1102--Chapter 1102, Texas Occupations Code.

(5) [~~(4)~~] Commission--The Texas Real Estate Commission.

(6) [~~(5)~~] Compensation--A commission, fee, or other valuable consideration for real estate brokerage services provided by a license holder under the Act.

(7) [~~(6)~~] Executive Director--The Executive Director of the Texas Real Estate Commission.

(8) [~~(7)~~] Foreign broker--A real estate broker licensed in another country, territory, or state other than Texas.

(9) [~~(8)~~] License--Any Commission license, registration, certificate, approval, or similar form of permission required by law.

(10) [~~(9)~~] License holder--A person licensed or registered by the Commission under Chapter 1101 or 1102, Texas Occupations Code.

(11) [~~(10)~~] Place of business--A place where the license holder meets with clients and customers to transact business.

(12) [~~(11)~~] Trade Association--A nonprofit voluntary member association or organization:

(A) whose membership consists primarily of persons who are licensed as real estate license holders and pay membership dues to the association or organization;

(B) that is governed by a board of directors elected by the members; and

(C) that subscribes to a written code of professional conduct or ethics.

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

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SUBCHAPTER B. GENERAL PROVISIONS RELATING TO THE REQUIREMENTS OF LICENSURE

22 TAC §535.5

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.5, License Not Required, in Chapter 535, General Provisions.

The proposed amendments to §535.5 are made as a result of statutory changes enacted by the 89th Legislature in SB 1172. SB 1172 exempts additional types of transactions from license requirements under Chapter 1101, Occupations Code. The proposed changes modify existing exemption language related to employees of business entities and adds a reference to §1101.005 of the Texas Occupations Code (where the exemptions are located) for clarity.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable rules.

For each year of the first five years, the proposed amendments are in effect the rule will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

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

§535.5. License Not Required.

(a) Acting as a principal, a person may purchase, sell, lease, or sublease real estate for profit without being licensed as a broker or sales agent.

(b) A person who owns property jointly may sell and convey title to his or her interest in the property, but to act for compensation or with the expectation of compensation as an agent for the other owner, the person must be licensed unless otherwise exempted by the Act.

(c) A real estate license is not required:

(1) for an employee [~~individual~~] employed by a business entity for the purpose of buying, selling, or leasing real property for the entity; or

(2) as otherwise provided by §1101.005, Occupations Code.

(d) For purposes of subsection (c) of this section:

(1) An entity is considered to be an owner if it holds record title to the property or has an equitable title or right acquired by contract with the record title holder.

(2) An employee of [~~individual employed by~~] a business entity means a person employed and directly compensated by the business entity. An independent contractor is not an employee.

(e) [~~(d)~~] Trade associations or other organizations that provide an electronic listing service for their members, but do not receive compensation when the real estate is sold, are not required to be licensed under the Act.

(f) [~~(e)~~] Auctioneers are not required to be licensed under the Act when auctioning real property for sale. However, a licensed auctioneer may not show the real property, prepare offers, or negotiate contracts unless the auctioneer is also licensed under the Act.

(g) [~~(f)~~] An answering service or clerical or administrative employees identified to callers as such to confirm information concerning the size, price, and terms of property advertised are not required to be licensed under the Act.

(h) [~~(g)~~] A business entity which receives compensation on behalf of a license holder that is earned by the license holder while engaged in real estate brokerage is not required to be licensed by the Commission if the business entity:

(1) performs no other acts of a broker;

(2) is:

(A) a limited liability company as defined by §101.001, Business Organizations Code; or

(B) an S corporation as defined by 26 U.S.C. Section 1361;

(3) is at least 51 percent owned by the license holder on whose behalf the business entity receives compensation; and

(4) is registered with the Commission as provided by §535.35 of this chapter (relating to Registration of Certain Business Entities).

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

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Abby Lee
General Counsel
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22 TAC §535.21

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.21, Mailing Address and Other Contact Information, in Chapter 535, General Provisions.

The proposed changes to §535.21 are made to implement statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 adds that license holders must provide the Commission with certain business contact information, like a business address and a business phone number. Furthermore, SB 1968 requires that associated brokers provide the Commission the name of the broker they associate with. The changes to §535.21 reflect these additions and add that this information will be provided through a process acceptable to the Commission.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

For each year of the first five years the proposed amendment is in effect the rule will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

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

§535.21. Mailing Address and Other Contact Information.

(a) Using a process acceptable to the Commission, each [~~Each~~] license holder shall provide a mailing address, business address, business phone number, and email address used for business to the Commission and shall report all subsequent changes not later than the 10th day after the date of a change of any of the listed contact information. If a license holder fails to update the contact information, the last known contact information provided to the Commission is the license holder's contact information.

(b) The Commission shall send a notice or correspondence to an active broker or an inactive license holder to the mailing or email address of the broker or license holder as shown in the Commission's records. The Commission shall send a notice or correspondence to an active sales agent to the mailing or email address of the sales agent's sponsoring broker as shown in the Commission's records.

(c) An associated broker shall provide to the Commission the name of the broker the associated broker is associated with and must report all subsequent changes no later than the 10th day after the date of the change.

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

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SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

22 TAC §535.56

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.56, Education and Experience Requirements for a Broker License.

The proposed changes to §535.56(a)(1)(B)(ii) and (a)(1)(C) are made as a result of statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 modifies the requirements surrounding the Commission's Broker Responsibility Course. Under the language of the bill, all brokers must take the course, regardless of whether they sponsor sales agents. Additionally, applicants for a broker license must complete the course prior to licensure. The changes to these provisions reflect the statutory changes.

The proposed change to subsection (e) of §535.56 is made as a result of the agency's license management system project. Because of this project, users will be able to access and provide information to the agency through an online process, rather than by submitting a paper form. As a result, the rule language is clarified to reflect this change.

The remainder of the proposed changes are recommended by the Commission's Broker Responsibility Advisory Committee (BRAC). Currently, in order to obtain a broker's license, an applicant must satisfy certain education and experience requirements. In terms of education, an applicant must complete 270 hours of qualifying real estate courses and 630 hours of real estate related education. Currently, a bachelor's degree or higher is deemed to satisfy the 630 hours of real estate related education. In addition to the education requirements, applicants must also have at least four years of active experience during the five years preceding the filing of the application, which must total a minimum of 360 experience points.

In recognition of the importance of experience for a broker applicant, the changes as proposed increase the minimum experience points required to obtain a broker license from 360 to 720 experience points. Because there is no limitation on the subject matter of the bachelor's degree, which may not be related to real estate, the changes also cap the real estate related education credit given for a bachelor's degree at 300 hours, instead of the full 630 hours. At the same time, again recognizing the importance of experience, the changes allow for the substitution of experience for education above and beyond the minimum 720 experience points. For any such experience, an applicant may receive a credit of up to 300 hours of the required 630 hours of real estate related education.

Next, the changes modify the language surrounding the property management experience calculation to a "per property per year" from just "per property" to better reflect industry practices. Finally, recognizing the importance of supervision and management experience, the changes modify the delegated supervision calculation to a points per transaction model (at three points per transaction), which will enable an applicant to accrue more points for this type of activity than is currently available under the rule.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law, as well as implementing the BRAC's recommendations to require broker

applicants have additional experience and to limit the education credit received for a bachelor's degree.

For each year of the first five years the proposed amendment is in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

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

§535.56. Education and Experience Requirements for a Broker License.

(a) Education requirements.

(1) An applicant for a broker license must provide the Commission with satisfactory evidence of completion of:

(A) 270 hours of qualifying real estate courses as required under §535.55 of this subchapter (relating to Education and Sponsorship Requirements for a Sales Agent License), which must include the 30 hour qualifying real estate brokerage course completed not more than two years before the application date; [~~and~~]

(B) an additional 630 classroom hours of related education from one or more of the following categories:

(i) qualifying courses defined under §535.64 of this chapter (relating to Content Requirements for Qualifying Real Estate Courses);

(ii) Commission-approved continuing education courses, including the six-hour Broker Responsibility Course; or

(iii) courses taken for credit from an accredited college or university in any of the following areas: accounting, advertising, architecture, business or management, construction, finance, investments, law, marketing, or real estate; and[.]

(C) the six-hour Broker Responsibility Course.

(2) An applicant who has earned a bachelor's degree or higher from an accredited college or university will be deemed to have satisfied 300 classroom hours of the related education requirements for a broker license. A copy of the college transcript awarding the degree must be submitted as evidence of completion of the degree.

(3) Education Credit for Experience.

(A) An applicant may receive credit for up to 300 classroom hours of the related education required under subsection (a)(1)(B) of this section for qualifying practical experience points above the minimum 720 points required under subsection (b) of this section.

(B) Experience points will be calculated according to the point system set forth in subsection (c) of this section.

(C) For every two experience points above the minimum 720 points, credit for one classroom hour of the related education will be awarded.

(b) Experience Requirements.

(1) An applicant for a broker license must have four years of experience actively practicing as a broker or sales agent in Texas during the five years preceding the date the application is filed. For purposes of this section:

(A) Experience is measured from the date a license is issued, and inactive periods caused by lack of sponsorship, or any other reason, cannot be included as active experience.

(B) A person licensed in another state may derive the required four years' experience from periods in which the person was licensed in one or more states. A person who is the designated broker of a business entity that is licensed as a real estate broker in another state is deemed to be a licensed real estate broker in another state.

(C) An applicant must have performed at least one transaction per year as described in subsection (c) of this section for at least four of the five years preceding the date the application is filed.

(2) An applicant for a broker license must demonstrate not less than 720 [~~360~~] points of qualifying practical experience obtained during the period required by subsection (b)(1) of this section, using TREC No. BL-A, Supplement A-Qualifying Experience Report for a Broker License. An applicant must use TREC No. BL-B, Supplement B-Qualifying Experience Report for a Broker License After an Application Has Been Filed, to report qualifying experience after an application for a broker license is filed.

(A) An applicant will receive credit for such experience according to the point system set forth in subsection (c) of this section.

(B) Upon request by the Commission, either prior to or after licensure, an applicant shall provide documentation to substantiate any or all of the experience claimed by the applicant.

(C) Failure to promptly provide the requested documentation or proof shall be grounds to deny the application. Any false claim of experience shall be grounds to deny the application, or shall be grounds to suspend or revoke the applicant's current license.

(c) Credit for experience. Experience points shall be credited to an applicant in accordance with the following schedule for active licensed sales agent or broker activity only:

(1) Residential transactions including single family, condo, co-op unit, multi-family (1 to 4-unit) and apartment unit leases:

(A) Closed purchase or sale--30 points per transaction.

(B) An executed lease for a landlord or tenant--5 points per transaction.

(C) rental property management rent collection--2.5 points per property per year.

(D) Closed purchase or sale of an unimproved residential lot--30 points per transaction.

(2) Commercial transactions, including apartments (5 units or more), office, retail, industrial, mixed use, hotel/motel, parking facility/garage, and specialty:

(A) Closed purchase or sale--50 points per transaction.

(B) An executed lease, renewal or extension for a landlord or tenant--10 points per year of the lease, renewal or extension up to a five year maximum per transaction.

(C) rental property management rent collection--15 points per property per year.

(3) Farm and Ranch and unimproved land transactions:

(A) Closed purchase or sale--30 points.

(B) An executed lease for a landlord or tenant--5 points per transaction.

(C) Rental property management rent collection--5 points per property per year.

(4) Delegated supervision--3 points per transaction [~~12 points per month~~].

(d) Documentation of applicable experience.

(1) An applicant shall have the burden of establishing to the satisfaction of the Commission that the applicant actually performed the work associated with the real estate transaction claimed for experience credit.

(2) If an applicant is unable to obtain documentation and/or the signature of a sponsoring broker to support their claim for experience, the applicant must use TREC No. AFF-A, Affidavit in Lieu of Documentation and/or Signature, to explain that the applicant made a good faith effort to obtain the documentation and/or signature, describing the effort to obtain the documentation and reasons why it is not available. In addition, the applicant must submit two TREC No. AFF-B, Affidavit in Support of Applicant's Claim of Experience, each signed by a different individual who knows the applicant or is familiar with the transaction(s) at issue attesting to the applicant's efforts to obtain the documentation and/or signature, and attesting to the fact that the applicant performed the work for which the applicant is requesting points.

(3) The Commission may request additional documentation, rely on the documentation provided under this section, or utilize any other information provided by the applicant to determine whether the applicant has sufficient experience as required by §1101.356 of the Act and this section.

(e) Experience forms. Forms and affidavits required to be used to report experience under this section are adopted by reference, published by and available from the Texas Real Estate Commission at [~~, P.O. Box 12188, Austin, Texas 78711-2188,~~] www.trec.texas.gov.

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

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22 TAC §535.58

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.58, License for Military Service Members, Veterans, or Military Spouses, in General Provisions.

The proposed changes are made as a result of statutory changes enacted by the 89th Legislature in HB 5629, which becomes effective September 1, 2025. HB 5629 modifies several provisions in Chapter 55 of the Texas Occupations Code relating to occupational licensing of military service members, military veterans, and military spouses. The bill modifies the language to require a state agency to issue a license to an applicant that is a military service member, veteran, or spouse and who holds a current license issued by another state that is similar in scope of practice to the license being sought and is in good standing (a defined term) with that state's licensing authority. The bill also modifies the procedure for out-of-state license recognition under §55.0041, Occupations Code. Finally, the bill changes the time period within which a state agency must issue the license, from 30 days to 10 business days from the filing of the application. The amendments to §535.58 are made to reflect these changes.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-

and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed 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 proposed under Texas Occupations Code, §§55.004 and 55.0041, including as amended by HB 5629, which require the issuance of licenses under certain parameters to military service members, military veterans, or military spouses.

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) "Good standing" has the meaning assigned by §55.0042, Occupations Code.

(2) [~~(1)~~] "Military service member" has the meaning assigned by §55.001(4), Occupations Code. [~~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.~~]

(3) [~~(2)~~] "Military spouse" has the meaning assigned by §55.001(5), Occupations Code. [~~means a person who is married to a military service member.~~]

(4) [~~(3)~~] "Military veteran" has the meaning assigned by §55.001(6), Occupations Code. [~~"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);

(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); and

(3) a person applying for a certificate of registration under this chapter must comply with all requirements of §535.400 of this chapter (relating to Registration of Easement or Right-of-Way Agents).

(c) License or certificate issuance [~~Expedited application~~].

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

(2) The Commission shall issue a certificate or license not later than the 10th business day after receipt of an application by an applicant who is a military service member, military veteran, or military spouse and:

(A) [~~If the applicant~~] holds a current certificate or license issued by a [~~country, territory, or~~] state other than Texas that is similar in scope of practice to [~~has licensing requirements that are substantially equivalent to the requirements for~~] the certificate or license issued in Texas and is in good standing with that state's licensing authority; or[~~, the Commission shall issue the license not later than the 30th day after receipt of the application.~~]

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

(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, military 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 military 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 service members and military spouses.

(1) A person who is a military service member or military spouse who holds a current certificate or license issued by a [~~country, territory, or~~] state other than Texas that is similar in scope of practice to [~~has licensing requirements that are substantially equivalent to the requirements for~~] the certificate or license issued in Texas and is in good standing with that state's licensing authority who wants to practice in Texas in accordance with §55.0041, Occupations Code, must submit an application using a process acceptable to the Commission and include:

(A) a copy of the military orders showing relocation to this state; [notify the Commission of the person's intent to practice in Texas on a form approved by the Commission; and]

(B) if the applicant is a military spouse, a copy of the military spouse's marriage license; [submit a copy of the military identification card issued to the person;] and

(C) a notarized affidavit affirming under penalty of perjury that:

(i) the applicant is the person described and identified in the application;

(ii) all statements in the application are true, correct, and complete;

(iii) the applicant understands the scope of practice for the applicable license or certificate in this state and will not perform outside of that scope of practice; and

(iv) the applicant is in good standing in each state in which the applicant holds or has held an applicable license.

(2) Not later than the 10th business day after the date the Commission receives an application [Upon receipt of the documents required] under paragraph (1) of this subsection, the Commission will notify the applicant that:

(A) the Commission recognizes the applicant's out-of-state license; [no later than 30 days, verify that the person is currently licensed and in good standing by another jurisdiction with substantially equivalent licensing requirements to Texas; and]

(B) the application is incomplete; or [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.]

(C) the Commission is unable to recognize the applicant's out-of-state license because the Commission does not issue a license similar in scope of practice to the applicant's license.

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

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

[(B) three years].

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

(5) [(7)] In [Notwithstanding paragraph (5) of this subsection, in] the event of a divorce or similar event that affects a person's status as a military spouse, the former spouse may continue to practice for three years from the date the spouse submitted the application [of the issuance of the license] under this subsection.

(6) In determining which states issue licenses similar in scope of practice to those issued by the Commission, the Commission will consider the authorized activities under the applicable license.

(h) The purpose of this section is to establish procedures authorized or required by Texas Occupations Code, Chapter 55, and is not intended to modify or alter rights that may be provided under federal law.

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

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Texas Real Estate Commission
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SUBCHAPTER I. LICENSE RENEWAL

22 TAC §535.92

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.92, Continuing Education Requirements, in Chapter 535, General Provisions.

The proposed changes are made as a result of statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 modifies the requirements surrounding the Commission's Broker Responsibility Course. Under the language of the bill, all brokers must take the course, regardless of whether they sponsor sales agents. The changes to these provisions reflect the statutory changes.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

Except as provided below, for each year of the first five years the proposed amendments are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

The proposed changes will expand an existing regulation and increase the number of individuals subject to the rule's applicability, as required by SB 1968.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed 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 proposed under Texas Occupations Code §1101.458, which requires the Commission to prescribe by rule the title, content, and duration of the broker responsibility course.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.92. Continuing Education Requirements.

(a) Required continuing education. 18 hours of continuing education are required for each renewal of a real estate sales agent or broker license and must include:

(1) a four-hour Legal Update I: Laws, Rules and Forms course;

(2) a four-hour Legal Update II: Agency, Ethics and Hot Topics course;

(3) three hours on the subject of real estate contracts from one or more Commission approved courses; and

(4) a six-hour Broker Responsibility Course [~~broker responsibility course~~], if the license holder:

(A) is a broker [~~sponsors one or more sales agent at any time during the current license period~~]; or

[~~(B) is a designated broker of a business entity that sponsors one or more sales agent at any time during the designated broker's current license period; or~~]

(B) [~~(C)~~] is a delegated supervisor under §535.2(e) of this chapter (relating to Broker Responsibility).

(b) Awarding continuing education credit. The Commission will award credit to a license holder for an approved continuing education course upon receipt of a course completion roster from a CE provider as required under §535.75 of this chapter (relating to Responsibilities and Operations of Continuing Education Providers).

(c) Continuing education credit for qualifying courses. Real estate license holders may receive continuing education elective credit for qualifying real estate courses or qualifying real estate inspection courses that have been approved by the Commission or that are accepted by the Commission for satisfying educational requirements for obtaining or renewing a license. Qualifying real estate courses must be at least 30 classroom hours in length to be accepted for continuing education elective credit.

(d) Continuing education credit for course taken outside of Texas. A course taken by a Texas license holder to satisfy continuing education requirements of a country, territory, or state other than Texas may be approved on an individual basis for continuing education elective credit in Texas upon the Commission's determination that:

(1) the Texas license holder held an active real estate license in a country, territory, or state other than Texas at the time the course was taken;

(2) the course was approved for continuing education credit for a real estate license by a country, territory, or state other than Texas and, if a correspondence course, was offered by an accredited college or university;

(3) the Texas license holder's successful completion of the course has been evidenced by a course completion certificate, a letter from the provider or other proof satisfactory to the Commission;

(4) the subject matter of the course was predominately devoted to a subject acceptable for continuing education credit in Texas; and

(5) the Texas license holder has filed a Credit Request for an Out-of-State Course, with the Commission.

(e) Continuing education credit for courses offered by the State Bar. To request continuing education elective credit for real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit, a license holder is required to file an Individual Credit Request for State Bar Course.

(f) Continuing education credit for attendance at Commission meeting. A real estate license holder may receive up to four hours of continuing education elective credit per license period for attendance in person at a single quarterly Commission meeting. Credit will only be awarded to license holders who attend the meeting in its entirety; no partial credit for attendance will be awarded. Credit will not be awarded to license holders appearing as a party to a contested case before the Commission.

(g) Continuing education credit for instructors. Instructors may receive continuing education credit for real estate qualifying courses subject to the following guidelines:

(1) An instructor may receive credit for those segments of the course that the instructor teaches by filing an Instructor Credit Request.

(2) An instructor may receive full course credit by attending any segment that the instructor does not teach in addition to those segments the instructor does teach.

(h) Limitations. The Commission will not award credit to a license holder who attends or instructs the same course more than once during:

(1) the term of the current license period; or

(2) the two-year period preceding the filing of a renewal application for a license after the license expiration date as provided for under §535.91 of this subchapter (relating to Renewal of a Real Estate License) or return to active status as provided for under Subchapter L of this chapter (relating to Inactive License Status).

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

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SUBCHAPTER N. SUSPENSION AND REVOCATION OF LICENSURE

22 TAC §535.141

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.141, Initiation of Investigation, in Chapter 535, General Provisions.

The proposed amendments are made as a result of statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 authorizes the Commission to provide the complaint notice sent to the respondent (the person who is the subject of a complaint) to another license holder who is associated with that respondent. The bill further provides that the Commission must adopt rules to specify who may receive this notice. The proposed changes add that a copy of a complaint notice will be sent to the broker or inspector who sponsors the respondent, as applicable, if the respondent is a sales agent or apprentice or real estate inspector, or a broker who is associated with the respondent, if the respondent is an associated broker.

The proposed changes were recommended by the Enforcement Committee.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed 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 proposed under Texas Occupations Code §1101.204, as amended by SB 1968, which requires the Commission to adopt rules to specify the persons who may receive the complaint notice.

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

§535.141. Initiation of Investigation; Order Requirements.

(a) A complaint which names a licensed real estate sales agent as the subject of the complaint but does not specifically name the sales agent's sponsoring broker, is a complaint against the broker sponsoring the sales agent at the time of any alleged violation for the limited purposes of determining the broker's involvement in any alleged violation and whether the broker fulfilled the broker's professional responsibilities provided the complaint concerns the conduct of the sales agent as an agent for the broker.

(b) The designated broker is responsible for all real estate brokerage activities performed by, on behalf of, or through a business entity. A complaint which names a business entity licensed as a broker as the subject of the complaint but which does not specifically name the designated broker is a complaint against the designated broker at the time of any alleged violation for the limited purposes of determining the designated broker's involvement in any alleged violation and whether the designated broker fulfilled the designated broker's professional responsibilities. A complaint which names a sales agent sponsored by a licensed business entity but which does not specifically name the designated broker of the business entity is a complaint against the designated broker at the time of any alleged violation by the sales agent for the limited purposes of determining the designated broker's involvement in any alleged violation and whether the designated broker fulfilled the designated broker's professional responsibilities provided the complaint concerns the conduct of the sales agent as an agent of the business entity.

(c) Except as otherwise provided by subsections (a) and (b) of this section, a copy of a complaint notice will be sent to:

(1) the broker who:

(A) sponsors the respondent, if the respondent is a sales agent; or

(B) is associated with the respondent as provided by the respondent under §535.21 of this chapter (relating to Mailing Address and Other Contact Information), if the respondent is an associated broker; or

(2) the sponsoring professional inspector, if the respondent is an apprentice inspector or a real estate inspector.

(d) [~~(c)~~]Using the criteria specified by §1101.204 of the Act, the Commission prioritizes and investigates complaints received by the Commission as follows:

(1) Level 1.

(A) Fraud or misrepresentation that involves loss of $10,000 or more.

(B) Continuing threat to public welfare.

(C) Unlicensed activity.

(2) Level 2.

(A) Fraud or misrepresentation that involves loss of less than $10,000.

(B) Negligence.

(C) Violations of Chapter 1102:

(i) 1102.301 negligence or incompetence by an inspector.

(ii) 1102.302 employment contingent on inspection report.

(iii) 1102.303 acting in conflicting capacities, i.e. inspector, broker, principal.

(iv) 1102.305 agreeing to perform repairs in connection with inspection.

(D) Violations of Standards of Practice, §§535.227 - 535.233 of this chapter.

(3) Level 3.

(A) Technical violations.

(B) Chapter 1102 complaints other than those listed in Level 2 above.

(C) Allegations involving education providers.

(e) [~~(d)~~] If information obtained during the course of an investigation of a complaint reveals reasonable cause to believe the respondents to the complaint may have committed other violations of the Act or rules, no additional authorization shall be required to investigate and take action based upon the information.

(f) [~~(e)~~] If the Commission suspends or revokes a license or probates an order of suspension or revocation against a license holder, the Commission may monitor compliance with its order and initiate action based on the authority of the original complaint or original authorization by the members of the Commission.

(g) [~~(f)~~] A person whose license has been suspended may not during the period of any suspension perform, attempt to perform, or advertise to perform any act for which a license is required by the Act or Commission rules.

(h) [~~(g)~~] A person whose license is subject to an order suspending the license must provide notice in writing not later than the third day before the date of the suspension as follows:

(1) if the person is a sales agent, notify his or her sponsoring broker in writing that his or her license will be suspended;

(2) if the person is a broker, notify any sponsored sales agent, or any business entity for which the person is designated broker that:

(A) his or her broker license will be suspended; and

(B) once the suspension is effective, any sponsored sales agent, or who is sponsored by the business entity, will no longer be authorized to engage in real estate brokerage unless:

(i) the sales agent is sponsored by another broker and files a change of sponsorship with the Commission; or

(ii) the business entity designates a new broker and files a change of designated broker with the Commission;

(3) If the person is an apprentice inspector or real estate inspector, notify his or her sponsoring professional inspector that his or her license will be suspended;

(4) if the person is a professional inspector notify any sponsored apprentice or real estate inspectors that:

(A) his or her professional inspector license will be suspended; and

(B) once the suspension is effective any sponsored apprentice or real estate inspectors will no longer be authorized to inspect any real property unless the apprentice or real estate inspectors associate with another professional inspector and file a change of sponsorship with the Commission.

(5) if the person has a contractual obligation to perform services for which a license is required by law or Commission rule, notify all other parties to the contract that the services cannot be performed during the suspension;

(6) if the person is a sales agent and is directly involved in any real estate transaction in which the sales agent acts as an agent, notify all other parties, including principals and other brokers, that the person cannot continue performing real estate brokerage services during the suspension; and

(7) if the person holds money in trust in any transaction in which the person is acting as a broker, remit such money in accordance with the instructions of the principals.

(i) [~~(h)~~] If, in conjunction with an application or disciplinary matter, an applicant or license holder agrees to automatic suspension or revocation of his or her license for failing to comply with an administrative term or requirement of an agreed order such as payment of a penalty or completion of coursework, the license may be automatically suspended or revoked with no further action by the Commission.

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

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SUBCHAPTER Q. ADMINISTRATIVE PENALTIES

22 TAC §535.191

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.191, Schedule of Administrative Penalties, in Chapter 535, General Provisions.

Commission rule §535.191 contains the schedule of administrative penalties, as required by §1101.702, Occupations Code. The rule contains three tiers of administrative penalty ranges: (i) $100 - $1,500 per violation per day; (ii) $500 - $3,000 per violation per day; and (iii) $1,000 - $5,000 per violation per day. Violations of applicable law and Commission rules are categorized within these tiers in accordance with §1101.702. Whether an administrative penalty is ultimately assessed and at what amount is determined in accordance with this statute and §535.191.

The proposed amendment to §535.191(c)(8) is made as a result of statutory changes enacted by the 89th Legislature in SB 1968, which becomes effective January 1, 2026. SB 1968 adds a requirement for a written agreement with a prospective buyer of residential real property to Chapter 1101 of the Texas Occupations Code. The bill also adds the Commission may take disciplinary action if there is a violation of this requirement. In accordance with §1101.702, this new violation is added to subsection (c)(8)--the $100 - $1,500 per violation per day penalty tier.

The proposed amendment to §535.191(c)(9) is also made as a result of SB 1968. SB 1968 requires that associated brokers provide the Commission the name of the broker they associate with. As a result, a new subsection is proposed to be added to Commission rule §535.21, Mailing Address and Other Contact Information, to reflect this requirement. The removal of the reference to subsection (a) in §535.191(c)(9) means that any violation of §535.21--including the new associated broker requirement--will fall into the first tier penalty range.

A clarifying change is made to subsection (e)(18) because of a corresponding change to §535.141, Initiation of Investigation; Order Requirements, which adds a new subsection related to SB 1968 and complaint notices.

Finally, existing violations associated with easement or right-of-way agents were added to subsections (c)(18)-(19), (d)(18)-(19), and (e)(21)-(22) and are categorized according to the criteria set forth in §1101.702.

The Commission's Enforcement Committee recommended the proposed changes.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

- create or eliminate a government program;

- require the creation of new employee positions or the elimination of existing employee positions;

- require an increase or decrease in future legislative appropriations to the agency;

- require an increase or decrease in fees paid to the agency;

- create a new regulation;

- expand, limit or repeal an existing regulation;

- increase or decrease the number of individuals subject to the rule's applicability;

- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed 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 amendment is also proposed under Texas Occupations Code, §1101.702, which requires the Commission adopt by rule a schedule of administrative penalties.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendment.

§535.191. Schedule of Administrative Penalties.

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

(b) The administrative penalties set forth in this section take into consideration all of 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 the Act and Rules:

(1) §1101.552;

(2) §1101.652(a)(3);

(3) §1101.652(a)(8);

(4) §1101.652(a-1)(3);

(5) §1101.652(b)(23);

(6) §1101.652(b)(29);

(7) §1101.652(b)(33);

(8) §1101.652(b)(34);

(9) [~~(8)~~] 22 TAC §535.21[~~(a)~~];

(10) [~~(9)~~] 22 TAC §535.53;

(11) [~~(10)~~] 22 TAC §535.65;

(12) [~~(11)~~] 22 TAC §535.91(d);

(13) [~~(12)~~] 22 TAC §535.121;

(14) [~~(13)~~] 22 TAC §535.154;

(15) [~~(14)~~] 22 TAC §535.155;

(16) [~~(15)~~] 22 TAC §535.157; [~~and~~]

(17) [~~(16)~~] 22 TAC §535.300;[~~.~~]

(18) §1101.653(5); and

(19) §1101.653(8).

(d) An administrative penalty range of $500 - $3,000 per violation per day may be assessed for violations of the following sections of the Act and Rules:

(1) §§1101.652(a)(4) - (7);

(2) §1101.652(a-1)(2);

(3) §1101.652(b)(1);

(4) §§1101.652(b)(7) - (8);

(5) §1101.652(b)(12);

(6) §1101.652(b)(14);

(7) §1101.652(b)(22);

(8) §1101.652(b)(28);

(9) §§1101.652(b)(30) - (31);

(10) §1101.654(a);

(11) 22 TAC §531.18;

(12) 22 TAC §531.20;

(13) 22 TAC §535.2;

(14) 22 TAC §535.6(c) - (d);

(15) 22 TAC §535.16;

(16) 22 TAC §535.17; [~~and~~]

(17) 22 TAC §535.144;[~~.~~]

(18) §§1101.653(6) - (7); and

(19) 22 TAC §535.402(a)(2) - (3).

(e) An administrative penalty range of $1,000 - $5,000 per violation per day may be assessed for violations of the following sections of the Act and Rules:

(1) §1101.351;

(2) §1101.366(d);

(3) §1101.557(b);

(4) §1101.558;

(5) §§1101.559(a) and (c);

(6) §1101.560;

(7) §1101.561(b);

(8) §1101.615;

(9) §1101.651;

(10) §1101.652(a)(2);

(11) §1101.652(a-1)(1);

(12) §§1101.652(b)(2) - (6);

(13) §§1101.652(b)(9) - (11);

(14) §1101.652(b)(13);

(15) §§1101.652(b)(15) - (21);

(16) §§1101.652(b)(24) - (27);

(17) §1101.652(b)(32);

(18) 22 TAC §535.141(g)[~~(f)~~];

(19) 22 TAC §§535.145 - 535.148; [~~and~~]

(20) 22 TAC §535.156;[~~.~~]

(21) §§1101.653(1) - (4); and

(22) 22 TAC §535.402(a)(1).

(f) The Commission may assess an additional administrative penalty of up to two times that assessed 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.

(g) Payment of an administrative penalty must be submitted in a manner acceptable to the Commission. Payments authorized to be submitted online may be subject to fees set by the Department of Information Resources that are in addition to the administrative penalty assessed by the Commission.

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

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Abby Lee
General Counsel
Texas Real Estate Commission
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For further information, please call: (512) 936-3057

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SUBCHAPTER T. EASEMENT OR RIGHT-OF-WAY AGENTS

22 TAC §535.405

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.405, Employee of Owner or Purchaser, in Chapter 535, General Provisions.

The proposed amendments to §535.405 are made as a result of statutory changes enacted by the 89th Legislature in SB 1172. SB 1172 exempts additional types of transactions from license requirements under Chapter 1101, Occupations Code. The proposed changes modify existing exemption language related to employees of owners or purchasers and adds a reference to §1101.005 of the Texas Occupations Code (where the exemptions are located) for clarity.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amend-

ments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be greater clarity in the rules and consistency with applicable law.

For each year of the first five years the proposed amendments are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

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

§535.405. Registration Not Required [~~Employee of Owner or Purchaser~~].

(a) An easement or right-of-way registration is not required:

(1) for an employee [~~individual~~] employed by an owner or purchaser for the purpose of selling, buying, leasing or transferring an easement or right-of-way for the owner or purchaser; or

(2) as provided by §1101.005, Occupations Code.

(b) A person is considered to be an owner if it holds an interest in [~~or wishes to acquire~~] an easement or right-of-way or has an equitable title or right acquired by contract with the record title holder.

(c) [~~(b)~~] An employee of [~~easement or right-of-way agent employed by~~] an owner or purchaser means a person employed and directly compensated by an owner or purchaser. An independent contractor is not an employee.

(d) [~~(c)~~] Withholding income taxes and Federal Insurance Contributions Act (F.I.C.A.) taxes from wages paid to another person is considered evidence of employment.

(e) [~~(d)~~] An employee of a business easement or right-of-way certificate holder is required to have an individual easement or right-of-way registration to sell, buy, lease, or transfer an easement or right-of-way.

The agency certifies that legal counsel has reviewed the proposal 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 §§537.20, 537.22, 537.26 - 537.28, 537.30 - 537.32, 537.37, 537.61 - 537.63, 537.68

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §537.20, Standard Contract Form TREC No. 9-17, Unimproved Property Contract; §537.22, Standard Contract Form TREC No. 11-8, Addendum for "Back-Up" Contract; §537.26 Standard Contract Form TREC No. 15-6, Seller's Temporary Residential Lease; §537.27 Standard Contract Form TREC No. 16-6, Buyer's Temporary Residential Lease; §537.28, Standard Contract Form TREC No. 20-18, One to Four Family Residential Contract (Resale); §537.30, Standard Contract Form TREC No. 23-19, New Home Contract (Incomplete Construction); §537.31, Standard Contract Form TREC No. 24-19, New Home Contract (Completed Construction); §537.32, Standard Contract Form TREC No. 25-16, Farm and Ranch Contract; §537.37, Standard Contract Form TREC No. 30-17, Residential Condominium Contract (Resale); §537.61, Standard Contract Form TREC No. 54-0, Landlord's Floodplain and Flood Notice; §537.62, Standard Contract Form TREC No. 55-0, Seller's Disclosure Notice; §537.63, Standard Contract Form TREC No. OP-L, Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law; and new rule §537.68, Standard Contract Form TREC No. 61-0, Water Notice: Seller's Disclosure about Groundwater and Surface Water Rights, in Chapter 537, Professional Agreements and Standard Contracts.

Each of the rules correspond to contract forms adopted by reference. Texas real estate license holders are generally required to use forms promulgated by TREC when negotiating contracts for the sale of real property. These 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 proposed amendments and new rule. The changes listed below apply to all contract forms unless specified otherwise. Paragraph numbers referenced are from the *One to Four Family Residential Contract (Resale)*.

In Paragraph 5A(2), a definition of "Legal Holiday" has been added to provide better clarity. The term is also capitalized in the Addendum for "Back-Up" Contract.

In Paragraph 5 and the receipt page, the terms "option fee," "earnest money," and "contract" are now in lower case because they are not considered defined terms.

In the Commission's recent Special-Purpose Review by the Sunset Advisory Commission, Sunset directed the Commission to add language to contract forms to provide prospective buyers with relevant information on groundwater and surface water rights associated with a property. To that end, a new Paragraph 7(I) has been added to the contract forms and a new *Water Notice: Seller's Disclosure About Groundwater and Surface Water Rights* has been created.

The Sunset Advisory Commission also directed, as part of that review, that the TREC Seller's Disclosure Notice be updated to: (i) provide a prospective buyer with information on whether the property is presently covered by insurance, including windstorm insurance, and whether the current seller has been unable to insure their property for any reason; (ii) inform a prospective buyer if there is a private road on or adjoining the property that the prospective buyer would be financially responsible for maintaining; (iii) provide a prospective buyer with information on the existence of aboveground storage tanks on the property that are more than 500 gallons and have stored petroleum products or other chemicals; and (iv) tell a prospective buyer whether their property is located in a conservation easement. The Seller's Disclosure Notice is updated to reflect those directives.

In light of changes to industry practices surrounding compensation, Paragraph 12A(1)(b) and (c) are amended to clarify when such provisions should be used. Additionally, the disclosure at the bottom of Page 10 related to compensation between brokers has been removed to help eliminate confusion.

The Broker Information page has been revised, in part, due to changes made as a result of SB 1968, enacted by the 89th Legislature, which becomes effective January 1, 2026. That bill removed references to the concept of "subagency" throughout Chapter 1101, Occupations. As a result, the term "subagent" is removed from the Broker Information page and the page been further reorganized with updated formatting and terminology to better reflect industry practice, including in light of SB 1968.

The proposed changes to the Buyer's Temporary Residential Lease, the Seller's Temporary Residential Lease, and the Landlord's Floodplain and Flood Notice are made as a result of SB 2349, enacted by the 89th Legislature, which becomes effective September 1, 2025. The bill clarifies that the flood notice is not required to be provided with the temporary residential leases. As a result, the paragraph referencing that requirement in the temporary residential leases is removed and the notice at the top of the Landlord's Floodplain and Flood Notice is amended to state that the notice is not required with a "TREC Temporary Residential Lease".

The terms "Listing Broker" and "Other Broker" have been replaced with the terms "Seller's Broker" and "Buyer's Broker" in the *Farm and Ranch Contract* and the *Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law*.

Abby Lee, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the sections as proposed are in effect, the public benefits anticipated as a result of adopting the sections as proposed will be improved clarity and greater transparency for members of the public and license holders who use these contract forms.

For each year of the first five years the proposed amendments and new rules are in effect, the amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability; or

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, Deputy General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rule are proposed 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 and rules are also adopted under Texas Occupations Code, §1101.155, which authorizes the Commission to adopt rules in the public's best interest that require license holders to use contract forms prepared by the Texas Real Estate Broker-Lawyer Committee and adopted by the Commission.

The statute affected by these amendments and new rules is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the amendments and new rules.

§537.20. Standard Contract Form TREC No. 9-18 [~~9-17~~], Unimproved Property Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 9-18 [~~9-17~~] approved by the Commission in 2025 [~~2024~~] for mandatory use in the sale of unimproved property where the intended use is for one to four family residences.

§537.22. Standard Contract Form TREC No. 11-9 [~~11-8~~], Addendum for "Back-Up" Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 11-9 [~~11-8~~] approved by the Commission in 2025 [~~2024~~] for mandatory use as an addendum to be attached to promulgated forms of contracts which are second or "back-up" contracts.

§537.26. Standard Contract Form TREC No. 15-7 [~~15-6~~], Seller's Temporary Residential Lease.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 15-7 [~~15-6~~] approved by the Commission in 2025 [~~2022~~] for mandatory use as a residential lease when a seller temporarily occupies property after closing.

§537.27. Standard Contract Form TREC No. 16-7 [~~16-6~~], Buyer's Temporary Residential Lease.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 16-7 [~~16-6~~] approved by the Commission in 2025 [~~2022~~] for mandatory use as a residential lease when a buyer temporarily occupies property before closing.

§537.28. Standard Contract Form TREC No. 20-19 [~~20-18~~], One to Four Family Residential Contract (Resale).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. ~~20-19~~ [20-18] approved by the Commission in 2025 [~~2024~~] for mandatory use in the resale of residential real estate.

§537.30. Standard Contract Form TREC No. 23-20 [~~23-19~~], New Home Contract (Incomplete Construction).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 23-20 [~~23-19~~] approved by the Commission in 2025 [~~2024~~] for mandatory use in the sale of a new home where construction is incomplete.

§537.31. Standard Contract Form TREC No. 24-20 [~~24-19~~], New Home Contract (Completed Construction).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 24-20 [~~24-19~~] approved by the Commission in 2025 [~~2024~~] for mandatory use in the sale of a new home where construction is completed.

§537.32. Standard Contract Form TREC No. 25-17 [~~25-16~~], Farm and Ranch Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 25-17 [~~25-16~~] approved by the Commission in 2025 [~~2024~~] for mandatory use in the sale of a farm or ranch.

§537.37. Standard Contract Form TREC No. 30-18 [~~30-17~~], Residential Condominium Contract (Resale).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 30-18 [~~30-17~~] approved by the Commission in 2025 [~~2024~~] for mandatory use in the resale of a residential condominium unit.

§537.61. Standard Contract Form TREC No. 54-1 [~~54-0~~], Landlord's Floodplain and Flood Notice.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 54-1 [~~54-0~~] approved by the Commission in 2025 [~~2022~~] for voluntary use [as an addendum to be added to a residential lease, including a promulgated temporary residential lease form,] to fulfill the disclosure requirements of §92.0135, Texas Property Code.

§537.62. Standard Contract Form TREC No. 55-1 [~~55-0~~], Seller's Disclosure Notice.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 55-1 [~~55-0~~] approved by the Commission in 2025 [~~2023~~] for voluntary use to fulfill the disclosure requirements of Texas Property Code §5.008.

§537.63. Standard Contract Form TREC No. 56-0 [~~OP-L~~], Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards as Required by Federal Law.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 56-0 [~~OP-L~~] approved by the Commission in 2025 [~~2011~~] for voluntary use to comply with federal regulation to furnish a lead paint disclosure in properties constructed prior to 1978.

§537.68. Standard Contract Form TREC No. 61-0, Water Notice: Seller's Disclosure about Groundwater and Surface Water Rights.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 61-0 approved by the Commission in 2025 for mandatory use to provide information regarding groundwater and surface water rights associated with the property.

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

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Abby Lee
General Counsel
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CHAPTER 543. RULES RELATING TO THE PROVISIONS OF THE TEXAS TIMESHARE ACT

22 TAC §543.5

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §543.5, Forms, in Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act.

The proposed amendments to §543.5 are made as a result of the agency's license management system project. Because of the license management system project, users will be able to provide more information and make payment to the agency utilizing an online process, rather than by submitting a paper form or check. As a result, the rule language is clarified to reflect this change. This includes the removal of references to most of the forms listed in §543.5 (the Consent to Service of Process form adopted by reference is updated with a new title to differentiate the form from other consent forms and contains terminology changes).

Abby Lee, General Counsel, has determined that for the first five-year period the proposed new rules are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed new rules. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rules. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Lee also has determined that for each year of the first five years the section as proposed are in effect, the public benefit

anticipated as a result of enforcing the section will be greater clarity and consistency in the rules.

For each year of the first five years the proposed new rules are in effect the new rules and amendments will not:

-create or eliminate a government program;

-require the creation of new employee positions or the elimination of existing employee positions;

-require an increase or decrease in future legislative appropriations to the agency;

-require an increase or decrease in fees paid to the agency;

-create a new regulation;

-expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability;

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules, to Abby Lee, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The changes are proposed under the Texas Property Code, §221.024, which authorizes the Texas Real Estate Commission to prescribe and publish forms and adopt rules necessary to carry out the provisions of The Texas Timeshare Act.

The statute affected by this proposal is Chapter 221, Property Code. No other statute, code or article is affected by the proposed new rules.

§543.5. Timeshare Consent to Service of Process [~~Forms~~].

[~~(a)~~] The Commission adopts by reference the Timeshare Consent to Service of Process, Form TSR 7-1, which must [~~following forms to~~] be used in connection with the registration [~~, amendment, or renewal~~] of a timeshare plan if the developer is a foreign corporation, limited liability company, or partnership that is not qualified to transact business in Texas.[:]

[~~(1) Application to Register a Timeshare Plan, Form TSR 1-6;~~]

[~~(2) Application to Amend a Timeshare Registration, Form TSR 2-6;~~]

[~~(3) Application for Abbreviated Registration of a Timeshare Plan, Form TSR 3-4;~~]

[~~(4) Application for Pre-sale Authorization, Form TSR 4-0;~~]

[~~(5) Escrow Surety Bond, Form TSR 5-1;~~]

[~~(6) Construction Surety Bond, Form TSR 6-1;~~]

[~~(7) Consent to Service of Process, Form TSR 7-0; and~~]

[~~(8) Application to Renew the Registration of a Timeshare Plan, Form TSR 8-2~~].

[~~(b) Forms approved or promulgated by the Commission must be submitted on copies obtained from the Commission, whether in printed format or electronically completed from the forms available on the Commission's website.~~]

[~~(c) Forms adopted by reference in this section are published by and available from the Texas Real Estate Commission at [P.O. Box 12188, Austin, Texas 78711-2188, or www.trec.texas.gov.~~]

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

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General Counsel
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TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 130. IMPAIRMENT AND SUPPLEMENTAL INCOME BENEFITS

SUBCHAPTER B. SUPPLEMENTAL INCOME BENEFITS

28 TAC §130.102

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §130.102, concerning eligibility for supplemental income benefits (SIBs). Section 130.102 implements Texas Labor Code §408.1415, which sets standards for SIBs recipients to demonstrate an active effort to get employment.

EXPLANATION. The amendments align the rule text with the statutory text. They add a reference to submitting job applications to mirror the language in Labor Code §408.1415(a)(3) and (b)(2), define "job application," and conform references to work search efforts. Amending §130.102 is necessary to eliminate confusion that has resulted from differences between the wording in the rule and the wording in the statute. It is also necessary to clarify that a job application is submitted to provide an employer or its designated representative information about a candidate for a specific position, and that a job application may be a physical or electronic form or other document. This ensures that the application is directed at a specific position, is about a specific candidate, can be physical or electronic, and can be a document other than a form. Labor Code §408.1415 requires a person receiving SIBs to provide evidence to DWC of active participation in a vocational rehabilitation program, active participation in work search efforts through the Texas Workforce Commission, or active work search efforts documented by job applications submitted by the SIBs recipient. The amendments also include nonsubstantive editorial and formatting changes that make updates for plain language and agency style to improve the rule's clarity.

DWC invited public comments on an informal draft posted on DWC's website on April 28, 2025. DWC considered the comments it received on the draft when drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chief Administrative Law Judge Allen Craddock has determined that during each year of the first five years the proposed amendments are in effect, there will be no or minimal measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local and state government entities are only involved in enforcing or complying with the proposed amendments when acting in the capacity of a workers' compensation insurance carrier. Those entities will be impacted in the same way as an insurance carrier and will realize the same benefits from the proposed amendments.

Chief Administrative Law Judge Craddock does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Chief Administrative Law Judge Craddock expects that enforcing and administering the proposed amendments will have the public benefits of aligning the rule text with text of Labor Code §408.1415; promoting clarity, consistency, and stability in the workers' compensation system; and ensuring that DWC's rules are current and accurate, which promotes transparent and efficient regulation.

Chief Administrative Law Judge Craddock expects that the proposed amendments will not increase the cost to comply with Labor Code §408.1415 because they do not impose requirements beyond those in the statute. Labor Code §408.1415 requires a person receiving SIBs to provide evidence to DWC of active participation in a vocational rehabilitation program, active participation in work search efforts through the Texas Workforce Commission, or active work search efforts documented by job applications submitted by the SIBs recipient. As a result, any cost associated with the proposed amendments does not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments align the text of the rule with the text of the statute and make editorial updates for plain language and agency style only. The proposed amendments do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will not create a new regulation;

- will not expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed rule conforms the language to the statute, enhances efficiency and clarity, and makes editorial changes for plain language and agency style. The proposed amendments do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR INFORMATION AND PUBLIC COMMENT. DWC requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on October 6, 2025. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, Texas 78711-2050.

DWC will also consider written and oral comments on the proposal at a public hearing at 11 a.m., Central time, on October 1, 2025. The hearing will take place remotely. DWC will publish details of how to view and participate in the hearing on the agency website at www.tdi.texas.gov//alert/event/index.html.

STATUTORY AUTHORITY. DWC proposes §130.102 under Labor Code §§408.1415, 402.00111, 402.00116, and 402.061.

Labor Code §408.1415 requires a person receiving SIBs to provide evidence to DWC of active participation in a vocational rehabilitation program, active participation in work search efforts through the Texas Workforce Commission, or active work search efforts documented by job applications submitted by the SIBs recipient. It also requires the commissioner of workers' compensation to adopt rules setting out compliance standards for these requirements.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 130.102 implements Labor Code §408.1415, enacted by House Bill 7, 79th Legislature, Regular Session (2005).

§130.102. Eligibility for Supplemental Income Benefits; Amount.

(a) - (c) (No change.)

(d) Work Search Requirements.

(1) An injured employee demonstrates an active effort to obtain employment by meeting at least one or any combination of the following work search requirements each week during the entire qualifying period:

(A) has returned to work in a position which is commensurate with the injured employee's ability to work.[;]

(B) has actively participated in a vocational rehabilitation program as defined in §130.101 of this title ([~~relating to~~] Definitions).[;]

(C) has actively participated in work search efforts conducted through the Texas Workforce Commission (TWC).[;]

(D) has performed active work search efforts documented by job applications the injured employee submitted. For purposes of this section, "job application" means a physical or electronic form or other document that is submitted to an employer or its designated representative to provide information about a candidate for a specific position.[; ~~or~~]

(E) has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor that [~~which~~] specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

(2) An injured employee who has not met at least one of the work search requirements in any week during the qualifying period is not entitled to SIBs unless the injured employee can demonstrate that he or she had reasonable grounds for failing to comply with the work search requirements under this section.

(e) Vocational Rehabilitation. As provided in subsection (d)(1)(B) of this section, regarding active participation in a vocational rehabilitation program, an injured employee must [~~shall~~] provide documentation sufficient to establish that he or she has actively participated in a vocational rehabilitation program during the qualifying period.

(f) Work Search Efforts. As provided in subsection (d)(1)(C) and (D) of this section regarding active participation in work search efforts and active work search efforts, an injured employee must [~~shall~~] provide documentation sufficient to establish that he or she has, each week during the qualifying period, made the minimum number of work search efforts, including submitting the minimum number of job applications, [~~and or work search contacts~~] consistent with the work search efforts [~~contacts~~] established by TWC that [~~which~~] are required for unemployment compensation in the injured employee's county of residence under [~~pursuant to~~] the TWC Local Workforce Development Board requirements.

(1) If the required number of work search efforts [~~contacts~~] changes during a qualifying period, the lesser number of work search efforts is [~~contacts shall be~~] the required minimum number of work search efforts [~~contacts~~] for that period.

(2) If the injured employee is residing out of state, the minimum number of work search efforts [~~contacts~~] required is [~~will be~~] the number required by the public employment service under [~~in accordance with~~] applicable unemployment compensation laws for the injured employee's place of residence.

(g) (No change.)

(h) Maximum Medical Improvement and Impairment Rating Disputes. If there is no pending dispute regarding the date of maximum medical improvement or the impairment rating before [~~prior to~~] the expiration of the first quarter, the date of maximum medical improvement and the impairment rating is [~~shall be~~] final and binding.

(i) (No change.)

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

Filed with the Office of the Secretary of State on August 14, 2025.

TRD-202502876
Kara Mace
General Counsel
Texas Department of Insurance, Division of Workers' Compensation
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 804-4703

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION
SUBCHAPTER G. GIFT ACCEPTANCE

34 TAC §1.400

The Comptroller of Public Accounts proposes new §1.400 concerning gift acceptance policy and procedures. The new section will be located in Chapter 1, new Subchapter G, titled "Gift Acceptance".

No legislation was enacted within the last four years that provides the statutory authority for this section.

Subsection (a) outlines certain definitions regarding gift acceptance.

Subsection (b) describes the authority of the agency to solicit or accept gifts.

Subsection (c) outlines the criteria the agency will use to determine whether to refuse a gift. The agency will refuse gifts to the agency from any person who is: currently a party in a contested case with the agency until at least 30 days have passed since the date of the final order; currently a party in litigation with the agency until at least 30 days have passed since the date of the final order; currently indebted to the state or owes delinquent taxes to the state based on the records of the agency; currently under investigation by the agency's Criminal Investigations Division; currently in default on a guaranteed student loan based on the records of the agency; currently indebted to the state for past due child support based on Attorney General records provided to the agency; a foreign (non-U.S.) business entity that is not licensed to do business in Texas; or a foreign adversary.

Subsection (d) outlines a procedure in which prospective donors may provide advance notice to the agency of their intent to make a gift, so that the prospective donor can be screened for potential conflicts of interest.

Subsection (e) describes the review procedures the agency will use to determine if the gift is consistent with applicable law, agency policies, and the agency's gift acceptance rule.

Subsection (f) sets forth gift acceptance procedures.

Subsection (g) outlines steps the agency will take if the agency refuses to accept a gift.

Subsection (h) allows the agency to deposit a donation of money into a suspense account, pending completion of the review.

Subsection (i) prescribes the process and notice requirements for using a refused gift to offset certain indebtedness owed to the state by the donor.

Subsection (j) specifies that for gifts valued at $500 or more, the agency will keep certain records regarding the gift and the donor.

Subsection (k) specifies that gifts will be used for public purposes, will not be used for the monetary enrichment of any agency employee, and donors may not direct the use or investment of the gift.

Subsection (l) addresses the donation of services to the agency.

Subsection (m) provides that this section does not address acceptance of gifts by individual employees. Gift acceptance by individual employees and the restrictions on such acceptance, are governed by Government Code, Chapter, 572 (Standards of Conduct); Penal Code, Chapter 36 (Prohibited Gifts); Penal Code, Chapter 39 (Misuse of State Resources); and the agency's ethics policies.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed new rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed new rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed new rule would benefit the public by fulfilling a statutory requirement, establishing a program whereby the agency could enhance its capacity to perform its duties, and protect state funding. There would be no significant economic cost to the public. The proposed new rule would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Chris Conradt, Senior Counsel, Fiscal and Agency Affairs Legal Services Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: chris.conradt@cpa.texas.gov. The agency must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under Government Code, §403.011(b), which authorizes the comptroller to solicit, accept or refuse gifts to the state; Government Code, Chapter 575, which governs acceptance of gifts by state agencies; and Government Code, §2255.001, which requires a state agency to adopt rules regarding the relationship between private donors and the agency and its employees.

The new section implements the Government Code, §403.011(b).

§1.400. Gift Acceptance Policy and Procedures.

(a) Definitions. The following words and terms when used in this section shall have the following meanings, unless the context clearly indicates otherwise.

(1) Agency--The Office of the Comptroller of Public Accounts.

(2) Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for an adjudicative hearing. For purposes of this section, the term does not include matters that are handled administratively without a hearing before the State Office of Administrative Hearings (SOAH).

(3) Employee--A full-time or part-time employee of the agency.

(4) Foreign adversary--A country or foreign non-government persons listed under 15 C.F.R. §791.4.

(5) Foreign business entity--A partnership, limited partnership, corporation, association, joint venture, or other business organization organized under the laws of a foreign jurisdiction outside the United States.

(6) Gift--A donation of money, property or services.

(7) Inception of the case--The date an application, complaint, petition, statement of intent, request for agency action, ruling, relief, or other document requiring an adjudicative hearing is filed.

(8) Indebted to the state--Owing a past due obligation of money or taxes to the State of Texas, as reported to the agency under Government Code, §403.055(f).

(9) Money--Cash or negotiable instruments.

(10) Party--A person by or against whom a contested case or lawsuit is brought and who is named on the record. For the purpose of this section, a party is the person named or admitted as a party to a contested case pending before the agency, or a person named or admitted as a party in litigation against the agency.

(11) Person--An individual, partnership, limited partnership, joint venture, trust, cooperative, corporation, association, or any other legal entity, however organized.

(12) Property--Real property or tangible or intangible personal property.

(13) Services--Administrative, technical, consulting or any other services or performance of duties assigned in furtherance of volunteer public service related to the duties of the agency.

(b) Authority to Accept Gifts. The agency may solicit and accept a gift on behalf of the state for any public purpose related to the duties of the agency. The agency may also solicit and accept donations of services on behalf of the state for any public purpose related to the duties of the agency.

(c) Authority to Refuse Gifts. The agency may refuse a gift for any reason and at any time. To guide the acceptance of gifts on behalf of the state, the agency establishes the following rule. The agency will not accept a gift from:

(1) a party in a contested case against the agency during the period from the inception of the contested case until the 30th day after the date of the final order in the contested case;

(2) a party in litigation against the agency until the 30th day after the date of the final order in the litigation;

(3) subject to subsection (i) of this section, a person who is indebted to the state or who owes delinquent taxes to the state, as reported to the agency under Government Code, §403.055(f);

(4) a person who is under investigation by the agency's Criminal Investigation Division;

(5) a person who is in default on a guaranteed student loan, as reflected in the records which are available to and utilized by the agency in the normal course of business;

(6) a person who is indebted to the state for past due child support, as reflected in the records which are available to and utilized by the agency in the normal course of business;

(7) a foreign business entity that is not licensed to do business in Texas; or

(8) a foreign adversary or a person associated with a foreign adversary.

(d) Notice of intent to make a gift. A person intending to make a gift to the agency is considered a prospective donor and shall provide to the agency upon request as much of the following information as is applicable:

(1) the complete legal name, address, telephone number, and social security number (if applicable) of the prospective donor;

(2) if the donor is a business organization, the prospective donor's company name, address, phone number and taxpayer identification number;

(3) a description of the intended gift;

(4) the estimated date on which the gift would be available;

(5) an estimate of the value of the gift as of the date of delivery;

(6) a statement describing any proposed use of the gift;

(7) a statement regarding the prospective donor's status with respect to each paragraph in subsection (c) of this section;

(8) a statement disclosing whether any agency employees serve as officers or directors of the prospective donor organization; and

(9) the agency may request that the donor supply additional information regarding the donor, the intended gift, its estimated value, its usefulness to the agency, the donor's status with respect to the gift acceptance rule, or any other information that the agency deems relevant to the intended gift.

(e) Review Procedures. The agency shall review the proposed gift as soon as practicable after receiving the intended gift or notice of an intended gift. The agency shall cross check the prospective donor information against the agency's records and other information it deems necessary to determine whether the proposed gift is consistent with applicable law, agency policies, and the agency's gift acceptance rule and whether the gift may be used for a public purpose related to the duties of the comptroller.

(f) Gift Acceptance. The agency will notify the donor if acceptance of the gift is approved. If requested, the agency may provide a receipt to the donor. The receipt shall specify the name of the donor organization, the date received, the donor's name, the amount of money or description of property donated, and include a statement that the agency has not provided any goods or services in consideration for the gift. Gifts of money will be deposited in the treasury unless statute or the constitution requires deposit to another fund.

(g) Gift Refusal. The agency may notify a prospective donor if the gift is refused. If the agency refuses a gift after receipt, the agency will return the gift subject to applicable law and subsection (i) of this section as soon as practicable.

(h) Use of Suspense Account. The agency may deposit a gift of money into a suspense account pending completion of the review under subsection (e) of this section. If accepted, the gift will be transferred to the treasury unless statute requires deposit to another fund. If refused, the gift will be returned subject to subsection (g) of this section.

(i) Use of Gift as Offset against Certain Indebtedness. Prior to the return of a gift rejected under subsection (g) of this section, the agency, to the greatest extent possible, will comply with the warrant hold and deduction procedures required by Government Code, §403.055 and §403.0551.

(j) Records of Gifts. For gifts valued at $500 or more, the agency will record the name of the donor, a description of the gift, and the purpose of the gift.

(k) Use of Gifts. The agency will ensure that all gifts to the agency are used for public purposes related to the duties of the agency. No gifts to the state shall be used for the monetary enrichment of any agency employee. Unless the agency agrees otherwise for a public purpose authorized by law, a donor may not direct the use or investment of the gift.

(l) Gifts of Service.

(1) The agency shall provide appropriate training as needed and advise on any applicable rules to persons who donate services.

(2) A person who donates services to the agency, subject to applicable law and agency policies, may use the agency's property during the periods of donated service to facilitate the provision of volunteer public service and further the public purposes of the agency. Agency employees may also work on agency projects with the donor during the periods of volunteer public service to further the agency's public purposes.

(3) If an agency employee is also an officer, director or volunteer for the donor organization, the employee's service for the donor organization may be limited to service outside of the employee's state work hours. An agency employee who is also an officer, director or volunteer for an organization that was created by the agency for a limited public purpose related to the duties of the agency, may perform services for the organization during the employee's state work hours.

(m) Rule Scope. This section does not apply to gifts to individual employees and does not apply to funds received under Government Code, §403.0121. Gift acceptance by individual employees and the restrictions on such acceptance, are governed by Government Code, Chapter 572 (Standards of Conduct); Penal Code, Chapter 36 (Prohibited Gifts); Penal Code, Chapter 39 (Misuse of State Resources); and the agency's ethics policies.

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

Filed with the Office of the Secretary of State on August 14, 2025.

TRD-202502872

Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 475-2220

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CHAPTER 3. TAX ADMINISTRATION
SUBCHAPTER S. MOTOR FUEL TAX

34 TAC §3.434

The Comptroller of Public Accounts proposes the repeal of §3.434, concerning liquefied gas tax decal.

The comptroller repeals this section following the passage of House Bill 1905, 84th Legislature, 2015, effective September 1, 2015, which repealed the tax on liquefied gas.

The last taxable period for liquefied gas is now outside the four-year statute of limitations for assessments and refund claims. See Tax Code, §111.107(a) (When Refund or Credit Is Permitted) and §111.201 (Assessment Limitation).

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed rule repeal is in effect, the repeal: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed rule repeal would benefit the public by conforming the rule to current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed rule repeal would have no fiscal impact on the state government, units of local government, or individuals. There would be no anticipated economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: tp.rule.comments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

This repeal is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

This proposal implements the repeal of Tax Code, §162.001, which defined liquefied gas as a motor fuel.

§3.434. Liquefied Gas Tax Decal.

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

Filed with the Office of the Secretary of State on August 15, 2025.

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Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 475-2220

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34 TAC §3.436

The Comptroller of Public Accounts proposes the repeal of §3.436, concerning liquefied gas dealer licenses.

The comptroller repeals this section following the passage of House Bill 1905, 84th Legislature, 2015, effective September 1, 2015, which repealed the tax on liquefied gas.

The last taxable period for liquefied gas is now outside the four-year statute of limitations for assessments and refund claims. See Tax Code, §111.107(a) (When Refund or Credit Is Permitted) and §111.201 (Assessment Limitation).

Brad Reynolds, Chief Revenue Estimator, has determined that during the first five years that the proposed rule repeal is in effect, the repeal: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Mr. Reynolds also has determined that the proposed rule repeal would benefit the public by conforming the rule to current statute. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses or rural communities. The proposed rule repeal would have no fiscal impact on the state government, units of local government, or individuals. There would be no anticipated economic cost to the public.

You may submit comments on the proposal to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528 Austin, Texas 78711 or to the email address: tp.rule.comments@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

This repeal is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

This proposal implements the repeal of Tax Code, §162.001, which defined liquefied gas as a motor fuel.

§3.436. Liquefied Gas Dealer Licenses.

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

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Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
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CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)
SUBCHAPTER D. CLAIMS PROCESSING--PAYROLL

34 TAC §§5.40, 5.41, 5.48

The Comptroller of Public Accounts proposes amendments to §5.40, concerning overpayments and underpayments of compensation, §5.41, concerning payroll requirements, and §5.48, concerning deductions for contributions to charitable organizations.

No legislation was enacted within the last four years that provides the statutory authority for the amendments.

The amendments to §5.40 reformat the definitions listed in subsections (a), (b), and (c) to conform with other definitions in Chapter 5; add a definition of "CAPPS" (Centralized Accounting, Payroll and Personnel System) in new subsection (b)(1)(A); delete the definition of "USPS" (Uniform Statewide Payroll System) in subsection (b)(1)(N) and the reference to USPS in subsection (b)(3)(B) because USPS is no longer used by the comptroller; and add a reference to CAPPS in subsection (b)(3)(B) because CAPPS replaces the functions of USPS as it relates to this subsection.

The amendments to §5.41 alphabetize the definitions in subsection (a) for ease of use; delete the definitions of "appropriation year," "fiscal year," "standard work schedule" and "non-standard work schedule" because these terms either do not appear anywhere else in this section or will not appear anywhere else in this section if these amendments become effective; add a definition of "comptroller" in new subsection (a)(4); delete the definition of "USPS" in subsection (a)(16) and all references to "USPS" in subsections (c), (h), (i), (l), (m), and (n) because USPS is no longer used by the comptroller; change "Comptroller of Public Accounts" to "comptroller" in subsection (a)(6) to use the defined term; shorten the deadline by which a payroll document must be received by the comptroller if a state agency wants to pick up its warrants before payday under a bailment contract the agency has executed with the comptroller in subsection (c)(2)(A), from seven workdays to one workday before the day on which the agency wants to pick up the warrants because our current business process has improved; substitute "CAPPS" for references to "USPS" in subsections (n)(2) and (n)(2)(A) because CAPPS replaces the functions of USPS as it relates to this subsection; delete "or to use the payroll and personnel components of CAPPS" as a conforming change in subsection (n)(2)(B); update the title to §5.46 in subsection (r)(1)(A), the statutory reference and title for the State University Employees Uniform Insurance Benefits Act in subsection (r)(3)(N), and the reference to the Judicial Retirement System of Texas Plan One and Plan Two in subsection (r)(3)(T); delete the Department of Assistive and Rehabilitative Services from the list of authorized payroll deductions in subsection (r)(3)(R) because this agency no longer exists; and add the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired to the list of authorized payroll deductions in subsection (r)(3)(R) in compliance with Vernon's Civil Statutes, Art. 6228a-5.

The amendments to §5.48 delete the definitions of "direct services" and "indirect services" in subsections (a)(9) and (a)(19) respectively because these terms are no longer used in this section; correct the statutory reference in subsection (a)(35) to Government Code, Chapter 659, Subchapter I; delete the definition of "uniform statewide payroll/personnel system" in subsection (a)(38) because this system is no longer used by the comptroller; update the language in subsections (b)(1)(E)(i) and (e)(2) regarding the first day a state agency, other than an institution of higher education, is required to permit its state employees to authorize a deduction to mirror the language in Government Code, Section 659.132 regarding authorized deductions; change "generic materials" to "generic campaign materials" in subsection (n)(2)(K) to use the defined term; and correct a typographical error in subsection (y)(1).

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rules are in effect, the rules: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rules would have no fiscal impact on the state government, units of local government, or individuals. The proposed amended rules would benefit the public by improving the clarity and implementation of the sections. There would be no anticipated economic cost to the public. The proposed amended rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Clarisse Roquemore, Director, Fiscal Management Division, at clarisse.roquemore@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments to §5.40 are proposed under Government Code, §659.006, which requires the comptroller by rule to prescribe procedures for state agencies to follow in making adjustments to payrolls for the pay period immediately following the period in which an inaccurate payment or deduction is made or in which other error occurs. The amendments are also proposed under Government Code, §666.008, which authorizes the comptroller to adopt rules and establish procedures to administer Government Code, Chapter 666, regarding recovering excess compensation paid to a state officer or employee.

The amendments to §5.41 are proposed under Government Code, §659.004(b), which authorizes the comptroller, in consultation with the state auditor, to adopt rule that prescribe uniform procedures for payroll and personnel reporting. The comptroller has consulted with the state auditor regarding the amendments to §5.41 as required by Government Code, §659.004(b).

The amendments to §5.48 are proposed under Government Code, §659.142(d), which requires the comptroller to adopt rules for the administration of Government Code, Chapter 659, Subchapter I regarding charitable contributions, with the advice of the State Employee Charitable Campaign Advisory Committee (State Advisory Committee). The comptroller provided a copy of the proposed amendments to Section 5.48 to the State Advisory Committee and has received their response.

The amendments to §5.40 implement Government Code, §659.006 and Government Code, Chapter 666.

The amendments to §5.41 implement Government Code, §659.004 regarding payroll and personnel reporting.

The amendments to §5.48 implement Government Code, Chapter 659, Subchapter I.

§5.40. Overpayments and Underpayments of Compensation.

(a) Definitions. The following words and terms, when used in [~~In~~] this section, shall have the following meanings, unless the context clearly indicates otherwise.[~~:~~]

(1) "Community college"--Has [~~has~~] the meaning assigned to "public junior college."

(2) "Comptroller"--The Comptroller [~~means the comptroller~~] of Public Accounts [~~public accounts~~] for the State of Texas.

(3) "Institution of higher education"--Has [~~has~~] the meaning assigned by Education Code, §61.003, except that the term does not include a public junior college or a community college.

(4) "Public junior college"--Has [~~has~~] the meaning assigned by Education Code, §61.003.

(b) Recovering overpayments of compensation.

(1) Special definitions. The following words and terms, when used in [~~In~~] this subsection, shall have the following meanings, unless the context clearly indicates otherwise.[~~:~~]

(A) "CAPPS"--The centralized accounting, payroll and personnel system maintained by the comptroller or a version held elsewhere as authorized by the comptroller. The payroll and personnel components are used by state agencies that use CAPPS as their internal system and it submits personnel and payroll information to SPRS.

(B) [~~(A)~~] "Compensation"--Has [~~has~~] the meaning assigned by Government Code, §666.001(1). The term:

(i) includes any type of bonus or performance reward; and

(ii) does not include a workers' compensation payment.

(C) [~~(B)~~] "Comptroller object code"--The [~~means the~~] four-digit code that indicates in USAS the type of expenditure made.

(D) [~~(C)~~] "Deduction"--A [~~means a~~] deduction of the amount of a state employee's indebtedness from any amount of compensation that a state agency owes the employee or the employee's successor.

(E) [~~(D)~~] "Fiscal year"--The [~~means the~~] accounting period beginning on September 1st and ending the following August 31st.

(F) [~~(E)~~] "HRIS"--The [~~means the~~] human resource information system.

(G) [~~(F)~~] "Indebtedness"--Money [~~means money~~] that a state employee owes a state agency because the employee received an overpayment of compensation from the agency.

(H) [~~(G)~~] "Overpayment of compensation"--Compensation [~~means compensation~~] paid to a state employee that exceeds the amount the employee was eligible to receive under law because at the time the compensation was paid:

(i) the employee was ineligible to receive all or a portion of the amount paid; or

(ii) the employee's eligibility to receive all or a portion of the amount paid was conditioned on the occurrence of an event that did not occur or the employee's fulfillment of a promise that the employee did not fulfill.

(I) [~~(H)~~] "Reduction"--A [~~means a~~] reduction in the gross amount of base salary or wages that a state agency owes a state employee or the employee's successor for services provided by the employee during any pay period after the pay period in which the indebtedness was incurred.

(J) [~~(I)~~] "SPRS"--The [~~means the~~] standardized payroll/personnel reporting system.

(K) [~~(J)~~] "State agency"--Has [~~has~~] the meaning assigned by Government Code, §666.001(3).

(L) [~~(K)~~] "State employee"--Has [~~has~~] the meaning assigned by Government Code, §666.001(4).

(M) [~~(L)~~] "Successor"--Has [~~has~~] the meaning assigned by Government Code, §666.001(5).

(N) [~~(M)~~] "USAS"--The [~~means the~~] uniform statewide accounting system.

[~~(N) "USPS" means the uniform statewide payroll system.~~]

(2) Exclusive authority to recover indebtedness.

(A) The comptroller has exclusive authority to recover an indebtedness if the comptroller is responsible under Government Code, §§404.046, 404.069, or 2103.003 for paying compensation to the employee or successor on behalf of a state agency. For example, if a payment of compensation is processed through USAS, then the comptroller has exclusive authority to recover the indebtedness.

(B) If the comptroller is not responsible under Government Code, §§404.046, 404.069, or 2103.003 for paying compensation to the employee or successor on behalf of a state agency, then only the agency that pays compensation to the employee or successor may recover the indebtedness. For example, a state agency that issues a check to pay the compensation of a state employee has exclusive authority to recover the indebtedness.

(3) General preconditions for the comptroller recovering an indebtedness.

(A) This paragraph applies only to the recovery of an indebtedness by deduction or reduction.

(B) A state agency's request for the comptroller to recover an indebtedness is invalid unless the request complies with any applicable requirements of HRIS, SPRS, USAS, and CAPPS [~~USPS~~].

(C) A state agency's request to the comptroller to recover an indebtedness constitutes the agency's certification to the comptroller that the agency already has:

(i) provided proper notice to the employee or successor according to paragraph (4) of this subsection; and

(ii) complied with Government Code, §666.005(a).

(D) A state agency may avoid making the certifications listed in subparagraph (C) of this paragraph only if the agency does not request the comptroller to recover the indebtedness.

(4) Notice requirements. A state agency's notice to a state employee or the employee's successor is "proper" for purposes of recovering an indebtedness only if the notice:

(A) complies with Government Code, §666.003(b)(1)-(3); and

(B) reasonably describes the method by which the indebtedness may be recovered if the indebtedness is not paid on or before the date specified.

(5) Calculating the hourly rate for the recovery of an indebtedness. This paragraph applies only if an indebtedness resulted from a state agency believing that a state employee worked more hours than the employee actually worked. When the agency calculates the amount of a deduction or a reduction, the agency shall use the hourly rate of pay that was in effect during the payroll period the hours were worked.

(6) Effect of the recovery of an indebtedness on payroll deductions. If a deduction (other than the deduction described in this subsection) was made from an overpayment of compensation at the time the overpayment occurred, then a refund of that deduction must be made in conjunction with the recovery of that overpayment. For example, the amount deducted to make a retirement contribution or to comply with the Federal Insurance Contributions Act must be refunded when the overpayment is recovered.

(7) Timing of a deduction. A deduction may be made from any payment of compensation and may be made more often than once monthly.

(8) Sufficiency of compensation to support a deduction.

(A) If the amount of a state employee's compensation is insufficient to support a deduction after all other deductions with a higher priority have been made, then a portion of the deduction must be made. The amount of the deduction that could not be made must be deducted in succeeding payroll periods until the full amount is deducted.

(B) This subparagraph applies to a state employee who has agreed to pay an indebtedness through deduction but under an installment plan. The amount that could not be deducted in a payroll period because of insufficient compensation must be added to the amount of the regularly scheduled installment in the next payroll period.

(9) Sufficiency of base salary or wages to support a reduction.

(A) If the amount of a state employee's base salary or wages is insufficient to support a reduction, then a portion of the reduction must be made. The amount of the reduction that could not be made must be subtracted from gross salary or wages in succeeding payroll periods until the full amount of the reduction is realized.

(B) This subparagraph applies to a state employee who has agreed to pay an indebtedness through a reduction but under an installment plan. The amount of the reduction that could not occur in a payroll period because of insufficient base salary or wages must be added to the amount of the regularly scheduled installment in the next payroll period.

(10) Reimbursement of accounts and funds in the state treasury.

(A) This paragraph applies only to a state agency that:

(i) directly used money in the state treasury to make an overpayment of compensation; or

(ii) initially used local money controlled by the agency to make an overpayment of compensation and then was reimbursed for that overpayment with money in the state treasury.

(B) A state agency that recovers an indebtedness must reimburse the appropriate account or fund in the state treasury. The agency must credit that reimbursement to the comptroller object code that corresponds to the type of compensation recovered, e.g., salary, benefit replacement pay, longevity pay. The reimbursement must be credited to the same fiscal year that was charged for the overpayment. If the fiscal year already has closed, then the agency must first deposit the reimbursement in a suspense account and then manually adjust the appropriate accounts.

(C) For purposes of this paragraph, "state treasury" means money that may be spent only on a warrant issued or electronic funds transfer initiated by the comptroller.

(11) Adjustments to payroll accumulators. A state agency that recovers an indebtedness shall adjust all relevant payroll accumulators, including agency paid taxes, employee paid taxes, and limits on benefit replacement pay and deferred compensation. The agency shall maintain sufficient records about these adjustments to prove compliance with state and federal laws and to support an audit.

(12) Terminations or interagency transfers of state employees. A deduction or a reduction that started while a state employee was employed by a state agency may not continue after the employee transfers to a different state agency. The amount of overpaid compensation that remains outstanding after the transfer may not be recovered through deduction or reduction.

(c) Correcting underpayments of compensation.

(1) Special definitions. The following words and terms, when used in [~~In~~] this subsection, shall have the following meanings, unless the context clearly indicates otherwise.[~~:~~]

(A) "Casual or task employee" means an individual who is employed by an institution of higher education for a short period or a particular task.

(B) "State agency"--A [~~means a~~] department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of Texas state government, the jurisdiction of which is not limited to a geographical portion of this state. The term includes the State Bar of Texas, the Board of Law Examiners, and an institution of higher education.

(C) "State employee"--Includes [~~includes~~] a state officer, a casual or task employee, and an individual whose employment with a state agency is conditional on the individual being a student.

(2) Quality control measures. Each state agency must ensure that its internal operating procedures include quality control measures that will detect any underpayment of compensation to a state employee.

(3) Deadline for correcting underpayments.

(A) Except as provided in subparagraph (B) or (C) of this paragraph, a state agency shall correct an underpayment of compensation for a particular pay period not later than the following pay period.

(B) A state agency shall promptly process a supplemental payroll to correct an underpayment of compensation to a state employee if delaying the correction would cause employee hardship.

(C) This subparagraph applies when a state agency does not detect an underpayment of compensation in time to correct it during the pay period following the pay period for which the underpayment occurred. The agency shall promptly correct the underpayment through a supplemental payroll.

(4) Choosing the hourly rate for the correction. This paragraph applies only if an underpayment of compensation resulted from a state agency believing that a state employee worked fewer hours than

the employee actually worked. The agency shall calculate the amount of the correction by using the hourly rate of pay that was in effect during the payroll period the hours were worked.

(5) Adjustments to payroll accumulators. A state agency that corrects an underpayment of compensation shall adjust all relevant payroll accumulators, including agency paid taxes, employee paid taxes, and limits on benefit replacement pay and deferred compensation. The agency shall maintain sufficient records about these adjustments to prove compliance with state and federal laws and to support an audit.

§5.41. Payroll Requirements.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Calendar month--The period from the first day through the last day of January, February, March, April, May, June, July, August, September, October, November or December [~~Appropriation year--The year that the legal authorization for the charge was granted by the legislature. Multiple appropriation year activity may occur within a single fiscal year~~].

(2) CAPPS--The centralized accounting, payroll and personnel system maintained by the comptroller or a version held elsewhere as authorized by the comptroller. The payroll and personnel components are used by state agencies that use CAPPS as their internal system and it submits personnel and payroll information to SPRS.

(3) [~~(2)~~] Casual or task employee--An individual who is employed by an institution of higher education for a short time period or a specific task.

(4) "Comptroller"--The Comptroller of Public Accounts for the State of Texas.

[~~(3) Fiscal year--The accounting period for the state government which begins on September 1 and ends on August 31.~~]

(5) [~~(4)~~] FLSA--The Fair Labor Standards Act of 1938.

(6) [~~(5)~~] GAA--The General Appropriations Act.

(7) [~~(6)~~] HRIS--The human resource information system maintained by the comptroller [~~Comptroller of Public Accounts~~]. It captures personnel and payroll information submitted by institutions of higher education and locally funded agencies.

(8) [~~(7)~~] Institution of higher education--Has the meaning assigned by Education Code, §61.003, except that the term does not include a public junior college.

(9) Locally funded agencies--State agencies whose funds are held in banks outside of the state treasury department.

(10) [~~(8)~~] Payroll document--The type of document that a state agency submits to the comptroller in the required format when requesting payment of the compensation of state employees or certain other types of payments as required by the comptroller.

(11) [~~(9)~~] Payroll information--Information concerning the type and amount of compensation earned by a state employee, deductions from the compensation earned by the employee, and the source of funding for the payment of compensation to the employee. The term includes other types of information that the comptroller requires to be reported as payroll information.

(12) [~~(10)~~] Personnel information--Information about a state employee's job, compensation, or personal characteristics. The term includes other types of information that the comptroller requires to be reported as personnel information. Personnel information includes all information related to the individual as an employee and must support statewide reporting, such as for military employment [~~veteran's~~] preference and Equal Employment Opportunity type information.

(13) [~~(11)~~] Qualified deferred compensation plan--A deferred compensation plan that is governed by Internal Revenue Code of 1986, §401(k).

(14) SPRS--The standardized payroll/personnel system maintained by the comptroller. It captures personnel and payroll information submitted by state agencies that report their data to SPRS.

(15) [~~(12)~~] State agency--A department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of Texas state government, the jurisdiction of which is not limited to a geographical portion of this state. The term includes the State Bar of Texas, the Board of Law Examiners, and an institution of higher education.

(16) [~~(13)~~] State employee--An officer or employee of a state agency. The term includes an elected or appointed officer; a full-time or part-time employee or officer; an hourly employee; a temporary state employee; a casual or task employee; an individual whose employment with a state agency is conditional on the individual being a student; a line item exempt employee; or an employee not covered by the Position Classification Act; an employee that works in a nonacademic position at a state institution of higher education and any other individual to whom wages are paid by a state agency or institution of higher education.

(17) [~~(14)~~] USAS--The uniform statewide accounting system maintained by the Comptroller of Public Accounts. It is the official accounting system for the State of Texas.

(18) [~~(15)~~] USAS format--The USAS layout that a state agency uses to submit payroll documents to the comptroller.

[~~(16) USPS--The uniform statewide payroll/personnel system maintained by the Comptroller of Public Accounts. It is used as the internal personnel and payroll system by user agencies.~~]

[~~(17) Calendar month--The period from the first day through the last day of January, February, March, April, May, June, July, August, September, October, November or December.~~]

(19) [~~(18)~~] Workday--Any day except Saturday and Sunday. The term includes a state or national holiday under GAA or Government Code, §§662.001 - 662.010.

[~~(19) SPRS--The standardized payroll/personnel system maintained by the Comptroller of Public Accounts. It captures personnel and payroll information submitted by state agencies that report their data to SPRS.~~]

[~~(20) CAPPS--The centralized accounting, payroll and personnel system maintained by the Comptroller of Public Accounts or a version held elsewhere as authorized by the Comptroller of Public Accounts. The payroll and personnel components are used by state agencies that use CAPPS as their internal system and it submits personnel and payroll information to SPRS.~~]

[~~(21) Standard work schedule--A schedule with the number of workdays and hours per month as published annually by the Comptroller of Public Accounts. It represents the number of workdays and hours per month that a Monday through Friday, 40 hour per week employee would work.~~]

[~~(22) Non-standard work schedule--A schedule other than a standard work schedule.~~]

[~~(23) Locally funded agencies--State agencies whose funds are held in banks outside of the state treasury department.~~]

(b) Required submission of payroll documents.

(1) A state agency must submit a payroll document to the comptroller if the agency is requesting reimbursement for the agency's payment of compensation to its employees. The payroll document must be in proper USAS format.

(2) A state agency may electronically submit a payroll detail to the comptroller according to the comptroller's requirements.

(c) Deadline for receipt of payroll documents.

(1) Generally. Except as provided in paragraph (2) of this subsection, a payroll document must be received by the comptroller, according to the comptroller's requirements, not later than the seventh workday before payday. This applies regardless of how often a state agency pays its employees.

(2) Exceptions.

(A) If a state agency wants to pick up its warrants before payday under a bailment contract the agency has executed with the comptroller, then the agency's payroll document must be received not later than one [~~the seventh~~] workday before the day on which the agency wants to pick up the warrants.

(B) A payroll document that is submitted by a state agency that uses [~~USPS or uses~~] CAPPS or reports to SPRS must be received by the comptroller, according to the comptroller's requirements, not later than the fourth workday before payday to ensure direct deposit of net pay.

(d) Supplemental payroll documents.

(1) When allowed. A state agency may submit a supplemental payroll document to the comptroller if a change occurs between the agency's submission of its regular payroll document and the end of the month.

(2) Adjustments in compensation. When a change results in a state agency owing money to a state employee, the agency should adjust the employee's compensation for the following month instead of submitting a supplemental payroll if the delay would not cause hardship to the employee.

(e) Non-regular payments. A state agency may make a payment to a state employee for other than the employee's regular compensation on a regular payroll document. The agency must select the proper comptroller object code for the payment.

(f) Cancellations of payments of compensation.

(1) Cancellations of warrants. When a state agency needs to cancel a payroll warrant, the agency must follow the comptroller's warrant cancellation procedures.

(2) Cancellation of electronic funds transfers. When a state agency needs to cancel a payment of compensation via the comptroller's electronic funds transfer system, the agency must follow the procedures specified by the comptroller.

(3) Issuance of new warrants. When a state agency needs to issue a new payroll warrant after canceling the original payroll warrant, the agency must follow the comptroller's procedures for supplemental payrolls.

(g) Payroll conversions. In early September of each year, state agencies that are subject to the Position Classification Act must furnish payroll conversion information to the comptroller and the state auditor according to their guidelines. Although the comptroller sends the guidelines to each state agency once each year, the guidelines are always available from the comptroller upon request.

(h) Reporting of personnel information to HRIS.

(1) Applicability. This subsection applies to a state agency only if it does not use [~~USPS,~~] CAPPS or report to SPRS.

(2) Reporting requirements.

(A) A state agency shall report personnel information to HRIS if:

(i) a state employee is added to or removed from the agency's payroll;

(ii) the agency changes a state employee's compensation rate;

(iii) the agency changes a state employee's classification or job title;

(iv) the legal name of a state employee of the agency changes;

(v) the social security number of a state employee of the agency changes;

(vi) a state employee of the agency goes on leave without pay or faculty development leave;

(vii) the home address of a state employee of the agency changes;

(viii) deduction information concerning a state employee of the agency changes, if HRIS requires reporting of that information; or

(ix) other job or descriptive information concerning a state employee of the agency changes, if HRIS requires reporting of that information.

(B) A state agency shall ensure that HRIS receives its report not later than the seventh day of the month after the month in which the change or event occurs that triggers the requirement for the agency to file the report.

(C) A report to HRIS under this paragraph must be made in the manner, frequency, and form required by the comptroller.

(i) Reporting of payroll information to HRIS.

(1) Applicability. This subsection applies to:

(A) an institution of higher education that does not use [~~USPS,~~] CAPPS or report to SPRS;

(B) the State Bar of Texas; and

(C) the Board of Law Examiners.

(2) Reporting requirements.

(A) A state agency shall report payroll information to HRIS.

(B) A state agency's report of payroll information must be complete not later than the seventh day of the month following the month covered by the report. A report is complete only if:

(i) it encompasses all the pay periods that end in the month covered by the report; and

(ii) HRIS receives it by the deadline.

(C) A report to HRIS under this paragraph must be made in the manner, frequency, and form required by the comptroller.

(j) Reporting errors. If the comptroller detects an error in a state agency's report of personnel or payroll information, then the comptroller shall provide a description of the error to the agency. The agency shall then correct the error according to the comptroller's requirements. The agency must correct the error not later than the seventh day of the month following the month in which the agency receives a description of the error.

(k) Additional mail codes. A state agency may establish an additional mail code for a state employee only by submitting the proper application to the comptroller's Fiscal Management division.

(l) Reporting of personnel information to [~~USPS,~~] CAPPS or SPRS.

(1) Applicability. This subsection applies to a state agency only if it does not report to HRIS.

(2) Reporting requirements.

(A) A state agency shall be considered to have reported personnel information to [~~USPS,~~] CAPPS or SPRS if:

(i) a state employee is added to or removed from the agency's payroll;

(ii) the agency changes a state employee's compensation rate;

(iii) the agency changes a state employee's classification or job title;

(iv) the legal name of a state employee of the agency changes;

(v) the social security number of a state employee of the agency changes;

(vi) a state employee of the agency goes on leave without pay or faculty development leave;

(vii) the home address of a state employee of the agency changes;

(viii) deduction information concerning a state employee of the agency changes; or

(ix) other job or descriptive information concerning a state employee of the agency changes.

(B) A state agency must ensure that the information is provided in the manner, frequency, and form required by the comptroller.

(m) Reporting of payroll information to [~~USPS,~~] CAPPS or SPRS.

(1) Applicability. This subsection applies to a state agency that does not report to HRIS.

(2) Reporting requirements.

(A) A state agency shall be considered to have reported payroll information to [~~USPS,~~] CAPPS or SPRS if the agency successfully completes the processing of payroll information.

(B) A state agency's report of payroll information must include any payments of regular salary, twice monthly salary, overtime pay, longevity, benefit replacement pay, lump sum payment of unused vacation and sick leave, emoluments and special pays such as bilingual or fire brigade pay. A report is complete only if:

(i) it encompasses all the pay periods that end in the month covered by the report; and

(ii) the comptroller receives it by the deadline.

(C) Payroll information under this paragraph must be processed in the manner, frequency, and form required by the comptroller.

(D) Reporting errors. If the comptroller detects an error in a state agency's report of personnel or payroll information, then the comptroller shall provide a description of the error to the agency. The agency shall then correct the error according to the comptroller's requirements.

(n) Standard payroll calculation.

(1) Exemption. This subsection does not apply to an institution of higher education.

(2) Required use of CAPPS [~~USPS~~].

(A) Except as provided in subparagraph (B) of this paragraph, a state agency must use CAPPS [~~USPS~~] to:

(i) calculate and otherwise generate the agency's payments of compensation to its state employees; and

(ii) maintain the agency's personnel and payroll information.

(B) A state agency is not subject to subparagraph (A) of this paragraph if the comptroller has allowed the agency to report to SPRS [~~or to use the payroll and personnel components of CAPPS~~].

(3) Conforming to payroll calculation. A state agency must conform its payroll calculation with the payroll calculation set forth in comptroller policies and procedures.

(o) Deceased state employees.

(1) Required payees. A state agency must pay the compensation earned by a deceased state employee to the employee's estate unless Estates Code, §453.004, or another law authorizes or requires a different payment method.

(2) Additional mail codes. When a state agency pays the estate of a deceased state employee, the agency must establish an additional mail code under the payee identification number of the employee.

(p) Overtime payments.

(1) Generally. A state employee covered by the overtime provisions of the FLSA must be credited or paid for overtime hours worked according to the GAA, the FLSA, and the regulations adopted by the United States Department of Labor under the FLSA. Those regulations and the FLSA prevail over the GAA to the extent of conflict, if any.

(2) Method for making overtime payments. A state agency may pay overtime on any payroll document submitted to the comptroller, including a supplemental payroll document.

(q) Payments of compensation for working partial months.

(1) State employees paid once each month.

(A) This paragraph applies only to a state employee who is paid once each month.

(B) A state agency must calculate the amount of compensation a state employee is entitled to receive for working less than a full month by:

(i) calculating the employee's hourly rate of pay according to the comptroller's requirements; and

(ii) multiplying the employee's hourly rate of pay by the number of hours worked to determine the correct amount of compensation.

(C) Subparagraph (B) of this paragraph also applies to the compensation paid to a state employee who is on leave without pay for less than an entire calendar month.

(2) State employees paid twice each month.

(A) This paragraph applies only to a state employee who is paid twice each month.

(B) This subparagraph applies to a state employee who does not work all the available hours in the first half of a month but works all the available hours in the second half of the month.

(i) The total compensation that must be paid to a state employee for an entire month is equal to the product of:

(I) the hours worked in the month by the employee; and

(II) the employee's hourly rate for the month calculated according to the comptroller's requirements.

(ii) The amount of compensation that must be paid to a state employee for services provided during the first half of a month is equal to the product of:

(I) the hours worked in that half of the month by the employee; and

(II) the employee's hourly rate for the month calculated according to the comptroller's requirements.

(iii) The amount of compensation that must be paid to a state employee for services provided during the second half of a month equals the difference between:

(I) the total compensation that must be paid to the employee for the entire month as determined under clause (i) of this subparagraph; and

(II) the compensation that must be paid to the employee for services provided during the first half of the month as determined under clause (ii) of this subparagraph.

(C) This subparagraph applies to a state employee who works all the available hours in the first half of a month but does not work all the available hours in the second half of that month.

(i) The total compensation that must be paid to a state employee for an entire month is equal to the product of:

(I) the hours worked in the month by the employee; and

(II) the employee's hourly rate for the month calculated according to the comptroller's requirements.

(ii) The amount of compensation that must be paid to a state employee for services provided during the first half of a month equals 50% of the employee's compensation for the month.

(iii) The amount of compensation that must be paid to a state employee for services provided during the second half of a month equals the difference between:

(I) the total compensation that must be paid to the employee for the entire month as determined under clause (i) of this subparagraph; and

(II) the compensation that must be paid to the employee for services provided during the first half of the month as determined under clause (ii) of this subparagraph.

(r) Payroll deductions.

(1) Special definitions. The following words and terms, when used in this subsection, shall have the following meanings unless the context clearly indicates otherwise.

(A) Certified state employee organization--A state employee organization that the comptroller has certified according to §5.46 of this title (relating to Deductions for Paying Membership Fees to Certain State Employee Organizations).

(B) State agency--

(i) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Education Code, §61.003;

(ii) the legislature or a legislative agency; or

(iii) the supreme court, the court of criminal appeals, a court of appeals, the State Bar of Texas, or another state judicial agency.

(2) Statutory limitation. Government Code, §659.002, prohibits a state agency from making a deduction from the compensation paid to an employee whose compensation is paid in full or in part from state funds unless the deduction is authorized by law.

(3) List of authorized deductions. The deductions authorized by law are:

(A) court-ordered deductions under Bankruptcy Code, Chapter 13;

(B) deductions required by levies imposed by the Internal Revenue Service;

(C) deductions required by payroll deduction agreements between the Internal Revenue Service and state employees if the agreements are legally binding on employing state agencies;

(D) federal income tax withholding;

(E) deductions required by the Federal Insurance Contributions Act, which includes social security and Medicare withholding;

(F) income tax deductions required by states other than Texas or by local governments outside Texas in which state employees live and work;

(G) contributions to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the optional retirement program, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two;

(H) fees charged to state employees by their employing state agencies for complying with court-ordered child support deductions from the employees' compensation;

(I) court-ordered child support deductions;

(J) extra federal income tax withholding;

(K) deferrals to and repayments of loans from the qualified deferred compensation plan;

(L) deductions required by a valid assignment, transfer, or pledge of compensation as security for an indebtedness under Education Code, §51.934;

(M) health benefits plan deductions, cafeteria plan deductions, and other deductions authorized by Insurance Code, Chapter 1551, Texas Employees Group Insurance Benefits Act;

(N) health benefits plan deductions, cafeteria plan deductions, and other deductions authorized by Insurance Code, Chapter 1601 [~~1551~~],[~~Texas~~] State [~~College and~~] University Employees Uniform Insurance Benefits Act;

(O) deductions for goods and services provided to employees by the institutional division of the Department of Criminal Justice;

(P) deductions for services provided to state employees of agencies as authorized in statute or the GAA;

(Q) deferrals to the deferred compensation plans governed by Internal Revenue Code of 1986, §457;

(R) contributions by employees of the Texas Higher Education Coordinating Board, the Texas Education Agency, the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired [~~Department of Assistive and Rehabilitative Services~~], the Department of State Health Services, the Texas Juvenile Justice Department, and the governing boards of state-supported institutions of higher education to any investment authorized under Internal Revenue Code of 1986, §403(b);

(S) deductions to pay membership fees to certified state employee organizations;

(T) service purchase installment deductions for contributing members of the Employees Retirement System of Texas, the Judicial Retirement System of Texas Plan One [~~I~~], or the Judicial Retirement System of Texas Plan Two [~~II~~];

(U) deductions from the compensation paid to certain faculty members who take English proficiency courses under Education Code, §51.917;

(V) deductions for contributions to eligible charitable organizations;

(W) deductions for payments to credit unions;

(X) deductions required by federal law for the repayment of guaranteed student loans;

(Y) deductions for savings bond purchases;

(Z) deductions for supplemental optional benefit programs approved by the Employees Retirement System of Texas under Government Code, §659.102;

(AA) deductions to make payments under a prepaid tuition contract; and

(BB) deductions for contributions to a qualified football coaches plan.

(s) Garnishments.

(1) Delivery of garnishment notices. A notice to garnish the compensation of a state employee must be delivered directly to the employing state agency.

(2) Garnishment notices for terminated employees. If a state agency receives a garnishment notice for a person no longer employed by the agency, then the agency must:

(A) return the notice to the entity that issued the notice;

(B) inform the entity that the person is no longer employed; and

(C) identify to the entity the retirement system that the entity should contact to seek information about the person's retirement contribution balance.

(3) Compliance with garnishment notices. Upon receipt of a valid garnishment notice, the receiving state agency must:

(A) inform the affected state employee about the notice and the procedures the agency will follow to comply with the notice;

(B) establish a mail code on the comptroller's Texas payee information system for the recipient of the garnishment proceeds unless a payee number has already been designated for all state agencies to use; and

(C) show the garnishment as a miscellaneous deduction on the affected state employee's payroll record.

(4) Effective date of garnishment notices. A garnishment notice takes effect with the first payroll document submitted to the comptroller after the notice is received. Therefore, if a state agency receives a garnishment notice after the agency has submitted a payroll document to the comptroller, the notice does not apply to that document.

(t) Refunds of deductions. A state agency may refund amounts previously deducted in error only by using credit amounts in the appropriate deduction column on a payroll document.

§5.48. Deductions for Contributions to Charitable Organizations.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Campaign coordinator--The state employee who has volunteered and been designated by the chief administrator of a state agency to coordinate the state employee charitable campaign for that agency.

(2) Campaign material--A logo identifying the state employee charitable campaign, a campaign slogan, a campaign film, a campaign donor brochure, a donor authorization form, an online giving tool website and/or application, and other materials as approved by the state policy committee.

(3) Campaign year--For salary or wages paid once each month, the payroll periods from December 1st through November 30th. For salary or wages paid twice each month, the payroll periods from December 16th through December 15th. For salary or wages paid every other week by a state agency that is not an institution of higher education, the 26 consecutive payroll periods beginning with the period that corresponds to the payment of salary or wages occurring on or closest to, but not after, December 31st. For salary or wages paid every other week by an institution of higher education, the 26 consecutive payroll periods beginning with the period designated by the institution if the period is entirely within December.

(4) Charitable organization--Has the meaning assigned by Government Code, §659.131.

(5) Comptroller--The Comptroller of Public Accounts for the State of Texas.

(6) Comptroller's electronic funds transfer system--The system authorized by Government Code, §403.016, that the comptroller uses to initiate payments instead of issuing warrants.

(7) Deduction--The amount subtracted from a state employee's salary or wages to make a contribution to a local campaign manager or a statewide federation or fund that has been assigned a payee identification number by the comptroller.

(8) Designated representative--A state employee volunteer or other individual named by a local campaign manager or a statewide federation or fund as its representative.

[(9) Direct services--Has the meaning assigned by Government Code, §659.131.]

(9) [(10)] Eligible charitable organization--A charitable organization that is determined to be eligible to participate in the state employee charitable campaign as provided by this section and Government Code, §659.146.

(10) [(11)] Eligible local charitable organization--A local charitable organization that has been approved for local participation in the state employee charitable campaign.

(11) [(12)] Employer--A state agency that employs at least one state employee.

(12) [(13)] Federated community campaign organization--Has the meaning assigned by Government Code, §659.131.

(13) [(14)] Federation or fund--Has the meaning assigned by Government Code, §659.131.

(14) [(15)] Generic campaign materials--Campaign materials that have not been modified to reflect a particular local campaign area's participants or a local employee committee.

(15) [(16)] Health and human services--Has the meaning assigned by Government Code, §659.131.

(16) [(17)] Holiday--A state or national holiday as specified by Government Code, §662.003. The term does not include a state or national holiday if the General Appropriations Act prohibits state agencies from observing the holiday.

(17) [(18)] Include--A term of enlargement and not of limitation or exclusive enumeration. The use of the term does not create a presumption that components not expressed are excluded.

[(19) Indirect services--Has the meaning assigned by Government Code, §659.131.]

(18) [(20)] Institution of higher education--Has the meaning assigned by Education Code, §61.003. The term does not include a public junior college that has decided not to participate in the state employee charitable contribution program in accordance with subsection (x) of this section.

(19) [(21)] Local campaign area--Has the meaning assigned by Government Code, §659.131.

(20) [(22)] Local campaign manager--Any local campaign manager or managers appointed by the state policy committee under Government Code, §659.140(e)(1)(C).

(21) [(23)] Local campaign materials--Campaign materials that have been modified to reflect a particular local campaign area's participants and the local employee committee for the area if the state policy committee has approved the modifications, and additional materials that the state policy committee has approved because they are based on and consistent with the campaign materials approved by the committee.

(22) [(24)] Local charitable organization--Has the meaning assigned by Government Code, §659.131.

(23) [(25)] Local employee committee--Any local employee committee or committees appointed by the state policy committee under Government Code, §659.140(e)(1)(B).

(24) [(26)] May not--A prohibition. The term does not mean "might not" or its equivalents.

(25) [(27)] Payee identification number--The 14-digit number that the comptroller assigns to each direct recipient of a payment made by the comptroller for the State of Texas.

(26) [(28)] Public junior college--Has the meaning assigned by Education Code, §61.003. The term includes a community college.

(27) [(29)] Salary or wages--Base salary or wages, longevity pay, or hazardous duty pay.

(28) [(30)] State advisory committee--Has the meaning assigned by Government Code, §659.131.

(29) [(31)] State agency--Has the meaning assigned by Government Code, §659.131.

(30) [(32)] State campaign manager--A federated community campaign organization or a charitable organization that is selected by the state policy committee as provided by this section to coordinate state employee charitable campaign operations with any local campaign managers appointed by the state policy committee.

(31) [(33)] State employee--An employee of a state agency. The term does not include an employee of a public junior college that is not participating in the state employee charitable contribution program in accordance with subsection (x) of this section.

(32) [(34)] State employee charitable campaign--Has the meaning assigned by Government Code, §659.131.

(33) [(35)] State employee charitable contribution program--The charitable deduction program authorized by Government Code, Chapter 659, Subchapter I [D] (exclusive of the deductions authorized by Government Code, §659.1311(b) - (c)).

(34) [(36)] State policy committee--Has the meaning assigned by Government Code, §659.131.

(35) [(37)] Statewide federation or fund--A federation or fund that has been approved for statewide participation in the state employee charitable campaign.

[(38) Uniform statewide payroll/personnel system--A system in which uniform statewide payroll procedures are followed.]

(36) [(39)] Workday--A calendar day other than Saturday, Sunday, or a holiday.

(b) Deductions.

(1) Authorization of deductions.

(A) A state employee who is not employed by an institution of higher education may authorize not more than three monthly deductions from the employee's salary or wages.

(B) A state employee who is employed by an institution of higher education may authorize not more than three monthly deductions from the employee's salary or wages, if the institution has not specified a higher maximum number of deductions that its employees may authorize, If the institution has specified a higher maximum number, then the employee may authorize not more than that number.

(C) A state employee may authorize only one deduction to any particular statewide federation or fund or local campaign manager.

(D) A state employee may authorize a deduction only if the employee:

(i) properly completes an authorization form or an electronic deduction authorization entered through the online giving tool website or application; and

(ii) submits the form to a designated representative of the statewide federation or fund or the local campaign manager to which the deduction will be paid or completes an electronic deduction authorization through the online giving tool website or application.

(E) Except as provided in this subparagraph, a state employee may authorize a deduction only during a state employee charitable campaign.

(i) State law says that a state agency, other than an institution of higher education, is not required to permit its state employees to authorize a deduction until the first full payroll period after the agency is converted to a system in which [~~the~~] uniform statewide payroll procedures are followed [~~payroll/personnel system~~]. A state agency covered by that law shall permit its state employees to authorize deductions so that they are effective not later than the first full payroll period after conversion of the agency. Those authorizations may be made even if a state employee charitable campaign is not occurring when the authorizations are made.

(ii) A state employee who begins employment with the state may authorize a deduction if the employee's employer receives the employee's properly completed authorization form or electronic deduction authorization not later than the 30th day after the employee's first day of employment with the agency. A new state employee may authorize a deduction even if a state employee charitable campaign is not occurring when the employment begins or the form or access to the electronic online giving tool website or application is provided. This clause does not apply to a state employee who transfers from one state agency to a second state agency.

(F) Neither the comptroller nor a state agency is liable or responsible for any damages or other consequences resulting from a state employee authorizing an incorrect amount of a deduction.

(2) Minimum amount of deductions. If a state employee authorizes a deduction, the minimum amount of the deduction is two dollars per month. This minimum applies to each deduction authorized by the employee. For example, if the employee authorizes two deductions, then the amount of each of those deductions must be at least two dollars per month.

(3) Changes in the amount of deductions.

(A) At any time during a campaign year, a state employee may authorize a change in the amount to be deducted from the employee's salary or wages during that year.

(B) A state employee may authorize a change only by submitting a written authorization or electronic deduction authorization change to the employee's employer. The authorization may be a properly completed authorization form, electronic deduction authorization entered through the online giving tool website or application, or another type of written communication that complies with subparagraph (C) of this paragraph.

(C) To be valid, a written communication, other than an authorization form or electronic deduction authorization, that a state employee submits for the purpose of authorizing a change must specify or contain:

(i) the employee's name and appropriate identifying information;

(ii) the name of the employee's employer;

(iii) the six-digit code number of the charity for which the change is being authorized or, if the number is unknown, the charity's name;

(iv) the new amount to be deducted;

(v) the effective date of the change; and

(vi) the employee's original signature.

(D) A state employee may not change the statewide federation or fund or the local campaign manager that receives deducted amounts if the change would be provided outside the time a state employee charitable campaign is being conducted.

(E) A state employee may not change the eligible charitable organizations designated to receive deducted amounts paid to a statewide federation or fund if the change would be provided outside the time a state employee charitable campaign is being conducted.

(F) A state employee may not change the eligible local charitable organizations designated to receive deducted amounts paid to a local campaign manager if the change would be provided outside the time a state employee charitable campaign is being conducted.

(4) Sufficiency of salary or wages to support a deduction.

(A) A state employee is solely responsible for ensuring that the employee's salary or wages are sufficient to support a deduction.

(B) If a state employee's salary or wages are sufficient to support only part of a deduction, then no part of the deduction may be made.

(C) If a state employee has multiple deductions and the employee's salary or wages are insufficient to support all the deductions, then none of the deductions may be made.

(D) The amount that may not be deducted from a state employee's salary or wages because they are insufficient to support the deduction may not be made up by deducting the amount from subsequent payments of salary or wages.

(5) Timing of deductions.

(A) Except as provided in subparagraph (B) of this paragraph, a deduction may be made only from the salary or wages that are paid on the first workday of a month.

(B) If a state employee is not entitled to receive a payment of salary or wages on the first workday of a month, then the employee's employer may designate the payment of salary or wages during the month from which a deduction will be made. A deduction may be made only once each month.

(6) Cancellation of deductions.

(A) A state employee may cancel a deduction at any time by submitting a written cancellation notice to the employee's employer or by canceling an electronic deduction authorization through the online giving tool website or application. The notice may be a properly completed authorization form, another type of written communication, or an entry into the online giving tool website or application cancelling the deduction authorization. The authorization form or written communication shall comply with subparagraph (B) of this paragraph.

(B) To be valid, a written communication, other than an authorization form or electronic deduction authorization, that a state employee submits for the purpose of canceling a deduction must specify or contain:

(i) the employee's name and appropriate identifying information;

(ii) the name of the employee's employer;

(iii) the six-digit code number of the charity for which the cancellation is being made or, if the number is unknown, the charity's name;

(iv) the amount of the deduction to be canceled;

(v) the effective date of the cancellation; and

(vi) the employee's original signature.

(7) Interagency transfers of state employees.

(A) A deduction that started while a state employee was employed by a state agency may resume after the employee transfers to a second state agency only if:

(i) the employee requests a copy of the employee's authorization form from the first state agency and submits the copy to the second state agency or alternatively requests a copy of the report from the online giving tool website or application or other documentation acceptable to the second state agency;

(ii) the employee properly completes and submits an additional authorization form to the second state agency or completes an electronic deduction authorization, if the agency requires submission of the form or completion of the electronic deduction authorization; and

(iii) the second state agency receives the copy of the employee's authorization form or electronic deduction authorization and the additional authorization form or electronic deduction authorization, if required, not later than the 30th day after the employee's first day of employment by the second state agency.

(B) A deduction that may resume under subparagraph (A) of this paragraph shall become effective at the second state agency not later than with the salary and wages paid on the first workday of the second month following the later of:

(i) the month in which the agency receives the copy of the authorization form or electronic deduction authorization to which subparagraph (A)(i) of this paragraph refers; or

(ii) the month in which the agency receives the additional authorization form or electronic deduction authorization, if the agency requires submission of the form or completion of the electronic deduction authorization.

(C) This subparagraph applies only if a state agency requires an additional authorization form or electronic deduction authorization to be submitted under subparagraph (A)(ii) of this paragraph. The statewide federation or fund or the local campaign manager named on the form or electronic deduction authorization must be the same as that named on the original authorization form or electronic deduction authorization. The additional authorization form or electronic deduction authorization may not make any changes other than those that a state employee who has not changed employers may make after a state employee charitable campaign has ended.

(c) Designation of charitable organizations to receive deducted amounts.

(1) Receiving deducted amounts through local campaign managers.

(A) This subparagraph applies to a state employee only if not employed by an institution of higher education. A state employee's authorization of a deduction to a local campaign manager may designate not more than nine eligible local charitable organizations to receive the deducted amounts through the manager.

(B) This subparagraph applies to a state employee only if employed by an institution of higher education. A state employee's authorization of a deduction to a local campaign manager may designate one or more eligible local charitable organizations to receive the employee's deducted amounts through the manager. The employee may designate not more than nine organizations if the employing institution of higher education has not specified a higher maximum number of designations that its employees may make. If the institution has specified a higher maximum number, then the employee may designate not more than that number.

(C) If a state employee's authorization of a deduction to a local campaign manager designates only one eligible local charitable organization, then the organization's designated initial distribution amount with respect to the employee is equal to the employee's entire deduction to the local campaign manager.

(D) If a state employee's authorization of a deduction to a local campaign manager designates more than one eligible local charitable organization, then the designation is valid only if it specifies the designated initial distribution amount for each organization.

(E) If an eligible local charitable organization that a state employee designates under subparagraph (A) or (B) of this paragraph is a federation or fund, then the federation or fund shall distribute the deducted amounts it receives to its affiliated eligible charitable organizations according to its policy.

(F) This subparagraph applies if a state employee's authorization of a deduction to a local campaign manager does not contain a valid designation. The undesignated initial distribution amounts with respect to the employee for eligible local charitable organizations and statewide federations or funds shall be determined according to this subparagraph.

(i) Only an eligible local charitable organization that has been approved to participate in the local campaign area may have an undesignated initial distribution amount. Only a statewide federation or fund to which state employees in the local campaign area have authorized deductions may have an undesignated initial distribution amount.

(ii) The undesignated initial distribution amount for an eligible local charitable organization is equal to the distribution percentage for the organization multiplied by the amount of the employee's deduction authorization to the local campaign manager. The distribution percentage is equal to the organization's total designated initial distribution amount as determined or specified under subparagraphs (C) and (D) of this paragraph for all state employees in the local campaign area divided by the sum of:

(I) the total designated initial distribution amount for all eligible local charitable organizations in the local campaign area as determined or specified under subparagraphs (C) and (D) of this paragraph; and

(II) the total amount of deductions authorized to statewide federations or funds by state employees in the local campaign area.

(iii) The undesignated initial distribution amount for a statewide federation or fund is equal to the distribution percentage for the federation or fund multiplied by the amount of the employee's deduction authorization to the local campaign manager. The distribution percentage is equal to the total amount of deductions authorized to the federation or fund by state employees in the local campaign area divided by the sum of:

(I) the total designated initial distribution amount for all eligible local charitable organizations in the local campaign area as determined or specified under subparagraphs (C) and (D) of this paragraph; and

(II) the total amount of deductions authorized to statewide federations or funds by state employees in the local campaign area.

(G) The following example illustrates the calculation of undesignated initial distribution amounts according to subparagraph (F) of this paragraph.

(i) The following assumptions apply in this example.

(I) State employees in the Austin local campaign area have authorized $15,000 in deductions to the Austin local campaign manager. Of that amount, state employees have designated $10,000 for distribution to the following eligible local charitable organizations. Organization 1 has been designated to receive $5,000. Organization 2 has been designated to receive $3,000. And Organization 3 has been designated to receive $2,000.

(II) Of the $15,000 in authorized deductions to the Austin local campaign manager, $5,000 is undesignated.

(III) State employees in the Austin local campaign area have authorized total deductions of $10,000 to the following statewide federations or funds. Organizations 4 and 5 have each been authorized to receive $5,000.

(ii) The calculation of undesignated initial distribution amounts in this subparagraph relates only to the $5,000 in undesignated deductions to the Austin local campaign manager. This is because an eligible local charitable organization or a statewide federation or fund has an undesignated initial distribution amount only with respect to undesignated deductions.

(iii) The first step is to determine the designated initial distribution amount for each eligible local charitable organization listed in clause (i)(I) of this subparagraph. That amount for each organization is the total amount of deductions that state employees have designated to the organization. Therefore, the designated initial distribution amount for Organization 1 is $5,000, Organization 2 is $3,000, and Organization 3 is $2,000.

(iv) The second step is to determine the distribution percentage for each eligible local charitable organization listed in clause (i)(I) of this subparagraph. The distribution percentage must be determined according to subparagraph (F)(ii) of this paragraph. The distribution percentage for each organization is as follows:

(I) Organization 1--25%;

(II) Organization 2--15%;

(III) Organization 3--10%.

(v) The third step is to determine the distribution percentage for each statewide federation or fund listed in clause (i)(III) of this subparagraph. The distribution percentage must be determined according to subparagraph (F)(iii) of this paragraph. The distribution percentage for each federation or fund is as follows:

(I) Organization 4--25%;

(II) Organization 5--25%.

(vi) The fourth step is to determine the undesignated initial distribution amount for each eligible local charitable organization listed in clause (i)(I) of this subparagraph. The amount must be determined by multiplying the organization's distribution percentage by the amount of undesignated deductions to the Austin local campaign manager. The amount for each organization is as follows:

(I) Organization 1--$1,250;

(II) Organization 2--$750;

(III) Organization 3--$500.

(vii) The fifth and final step is to determine the undesignated initial distribution amount for each statewide federation or fund listed in clause (i)(III) of this subparagraph. The amount must be determined by multiplying the federation or fund's distribution percentage by the amount of undesignated deductions to the Austin local campaign manager. The amount for each organization is as follows:

(I) Organization 4--$1,250;

(II) Organization 5--$1,250.

(H) Notwithstanding anything in this paragraph, a local campaign manager shall distribute deducted amounts to an eligible local charitable organization or a statewide federation or fund according to the percentage method required by subsection (j) of this section. A designated or undesignated initial distribution amount specified or determined under this paragraph is only the starting point for calculating the amount to be distributed.

(2) Receiving deducted amounts through statewide federations or funds.

(A) This subparagraph applies to a state employee only if not employed by an institution of higher education. A state employee's authorization of a deduction to a statewide federation or fund may designate not more than nine eligible charitable organizations to receive the deducted amounts through the federation or fund.

(B) This subparagraph applies to a state employee only if employed by an institution of higher education. A state employee's authorization of a deduction to a statewide federation or fund may designate one or more eligible charitable organizations to receive the employee's deducted amounts through the federation or fund. The employee may designate not more than nine organizations if the employing institution of higher education has not specified a higher maximum number of designations that its employees may make. If the institution has specified a higher maximum number, then the employee may designate not more than that number.

(C) If a state employee's authorization of a deduction to a statewide federation or fund designates only one eligible charitable organization, then the organization's designated initial distribution amount with respect to the employee is equal to the employee's entire deduction to the statewide federation or fund.

(D) If a state employee's authorization of a deduction to a statewide federation or fund designates more than one eligible charitable organization, then the designation is valid only if it specifies the designated initial distribution amount for each organization.

(E) This subparagraph applies if a state employee's authorization of a deduction to a statewide federation or fund does not contain a valid designation. The statewide federation or fund shall determine the undesignated initial distribution amount with respect to the employee for each eligible charitable organization affiliated with the federation or fund. The determination must be accomplished according to the federation or fund's policy.

(F) Notwithstanding anything in this paragraph, a statewide federation or fund shall distribute deducted amounts to an eligible charitable organization according to the percentage method

required by subsection (k) of this section. A designated or undesignated initial distribution amount specified or determined under this paragraph is only the starting point for calculating the amount to be distributed.

(d) State employee charitable campaign.

(1) Time of the state employee charitable campaign. The state employee charitable campaign shall be conducted annually during the period after August 31st and before November 1st.

(2) Reimbursement of expenses incurred by state employees while representing charitable organizations. A state agency may not reimburse a state employee for expenses incurred while acting as a representative of a charitable organization.

(3) Participation by state employees. Participation by a state employee in the state employee charitable campaign is voluntary.

(e) Effective dates of authorization forms and electronic deduction authorizations.

(1) Effective date of authorization forms and electronic deduction authorizations provided during a state employee charitable campaign. A state employee's authorization form or electronic deduction authorization that is provided during a state employee charitable campaign is effective for the following campaign year if the form or electronic deduction authorization is completed properly, the form or electronic deduction authorization is signed by the employee, and the employee's employer receives the properly completed and signed form or electronic deduction authorization not later than November 15th before the start of that year. The deductions may not start before the beginning of that year.

(2) Effective date of authorization forms and electronic deduction authorizations provided immediately after a state agency is converted to a system in which [~~the~~] uniform statewide payroll procedures are followed [~~payroll/personnel system~~]. State law says that a state agency, other than an institution of higher education, is not required to permit its state employees to authorize a deduction until the first full payroll period after the agency is converted to a system in which [~~the~~] uniform statewide payroll procedures are followed [~~payroll/personnel system~~]. A state agency covered by that law shall permit its employees to authorize deductions so that they are effective not later than the first full payroll period after conversion of the agency. To be effective by that date, a properly completed authorization form or electronic deduction authorization must be received by the agency not later than the tenth workday before the first day of the agency's first full monthly payroll period after conversion.

(3) Effective date of authorization forms and electronic deduction authorizations provided by new state employees.

(A) Paragraph (1) of this subsection applies to a new state employee's authorization form or electronic deduction authorization if it:

(i) is received by the employee's employer during a state employee charitable campaign; and

(ii) authorizes a deduction to begin during the campaign year following the campaign year in which the form or electronic deduction authorization is received.

(B) This subparagraph applies to a new state employee's authorization form or electronic deduction authorization only if the form or electronic deduction authorization authorizes a deduction to begin during the same campaign year as the campaign year in which the employee's employer receives the form or electronic deduction authorization. The employer may decide when the deduction will take effect, subject to the following limitations.

(i) Except as provided in clause (ii) of this subparagraph, the deduction must begin not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form or electronic deduction authorization.

(ii) If the employer receives the form or electronic deduction authorization during October or November, then the employer may decide whether and when to give effect to the form or electronic deduction authorization.

(4) Effective date of authorization forms and electronic deduction authorizations that request changes in deductions.

(A) This paragraph applies only to a state employee's authorization form or electronic deduction authorization that requests a change to a deduction.

(B) The employer of the employee may decide when the change will take effect, subject to the following limitations.

(i) Except as provided in clause (ii) of this subparagraph, the change must take effect not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form or electronic deduction authorization.

(ii) If the employer receives the form or electronic deduction authorization during October or November of a campaign year and the form or electronic deduction authorization requests a change in a deduction for the year, then the employer may decide whether and when to give effect to the form or electronic deduction authorization.

(C) The following example illustrates the requirements of this paragraph. Assume that a state agency receives an authorization form or electronic deduction authorization on July 2, 2016, and that the form or electronic deduction authorization requests a decrease in the amount of a deduction. The agency may make the decrease effective with the deduction that occurs on the August 1, 2016, salary payment. If the agency does not, then the agency must make the decrease effective with the deduction that occurs on the September 1, 2016, salary payment.

(5) Effective date of authorization forms and electronic deduction authorizations that request cancellations of deductions.

(A) This paragraph applies only to a state employee's authorization form or electronic deduction authorization that requests the cancellation of a deduction.

(B) The employer of the employee may decide when the cancellation will take effect. The cancellation must take effect, however, not later than with the employee's salary or wages that are paid on the first workday of the second month following the month in which the employer receives the form or electronic deduction authorization.

(C) The following example illustrates the requirements of this paragraph. Assume that a state agency receives an authorization form or electronic deduction authorization on July 2, 2016, and that the form or electronic deduction authorization requests the cancellation of a deduction. The agency may make the cancellation effective with the August 1, 2016, salary payment. If the agency does not, then the agency must make the cancellation effective with the September 1, 2016, salary payment.

(f) Requirements for the content and format of authorization forms.

(1) Prohibition against distributing or providing authorization forms. A local campaign manager or a statewide federation or fund may distribute or provide an authorization form to a state employee only if both the comptroller and the state policy committee have approved the form.

(2) Requirement to produce authorization forms. A local campaign manager or a statewide federation or fund must produce an authorization form that complies with the comptroller's requirements and this section.

(3) Restrictions on approval of authorization forms. Neither the comptroller nor the state policy committee may approve the authorization form of a local campaign manager or a statewide federation or fund unless the form:

(A) is at least 8 1/2 inches wide and 11 inches long;

(B) states that statewide federations or funds and local campaign managers are required to use the percentage method to distribute a state employee's deducted amounts to eligible charitable organizations designated by the employee instead of matching deducted amounts received to actual designations;

(C) accurately describes the percentage method; and

(D) complies with the comptroller's requirements for format and substance.

(g) Procedure for federations or funds to apply for statewide participation.

(1) Request for statewide participation. A federation or fund may not be a statewide federation or fund unless the federation or fund applies to the state policy committee for that status in accordance with this section, Government Code, §659.146, and the committee's procedures.

(2) Requirements for the application. The application of a federation or fund to be a statewide federation or fund must include:

(A) a letter from the presiding officer of the federation or fund's board of directors certifying compliance by the federation or fund and its affiliated agencies with the eligibility requirements of Government Code, §659.146;

(B) a copy of a letter from each affiliate of the federation or fund certifying that the federation or fund serves as the affiliate's representative and fiscal agent in the state employee charitable campaign;

(C) a copy of the conflict of interest policy approved by the federation or fund's board of directors, which prohibits its board members, executive director, and staff from engaging in business transactions in which they have material conflicting interests;

(D) if the executive director of the federation or fund receives material compensation for services rendered to any organization other than the federation or fund, a full disclosure of:

(i) the name of the organization;

(ii) the nature and amount of the compensation; and

(iii) the relationship of the organization to the federation or fund;

(E) a copy of the federation or fund's current operating budget, signed by the presiding officer of the federation or fund's board of directors; and

(F) an acknowledgment that the federation or fund is responsible for filing any appeals from its affiliated agencies that have not secured approval for statewide or local participation in the state employee charitable campaign.

(3) Notification of the comptroller. Upon approval of a federation or fund for statewide participation in the state employee charitable campaign, the state policy committee shall submit to the comptroller:

(A) the complete name of the federation or fund;

(B) the mailing address of the federation or fund;

(C) the full name, title, telephone number, and mailing address of the federation or fund's primary contact;

(D) the payee identification number of the federation or fund, when available; and

(E) the other information deemed necessary by the comptroller.

(4) Payee identification numbers. A federation or fund that has been approved for statewide participation and that does not have a payee identification number shall submit a request for one to the comptroller.

(5) Electronic funds transfers.

(A) A federation or fund that has been approved for statewide participation in the state employee charitable campaign shall submit a request to be paid by the comptroller through electronic funds transfers under rules adopted by the comptroller. This subparagraph applies only to the extent that the comptroller's electronic funds transfer system is used.

(B) A federation or fund that has been approved for statewide participation in the state employee charitable campaign shall submit a request to be paid by an institution of higher education through electronic funds transfers under rules or procedures adopted by the institution. This subparagraph applies only to the extent that the comptroller's electronic funds transfer system is not used.

(6) Beginning of deductions. The first payment of deducted amounts to a statewide federation or fund shall occur the first month of the first campaign year that begins after the federation or fund is approved for statewide participation in the state employee charitable campaign.

(h) Procedure for charitable organizations to apply for local participation.

(1) Request for local participation.

(A) A charitable organization may not be an eligible local charitable organization unless it applies to the state policy committee and any applicable local employee committee appointed by the state policy committee in accordance with this section, Government Code, §659.147, and the committee's procedures.

(B) A federation or fund that wants to be an eligible local charitable organization may apply on behalf of its affiliated agencies.

(2) Requirements for applications from federations or funds. If a charitable organization applying to be an eligible local charitable organization is a federation or fund, then the organization must provide to the state policy committee and any applicable local employee committee appointed by the state policy committee:

(A) a letter from the presiding officer of the federation or fund's board of directors certifying compliance by the federation or fund and its affiliated agencies with the eligibility requirements of Government Code, §659.147;

(B) a copy of a letter from each affiliate of the federation or fund certifying that the federation or fund serves as the affiliate's representative and fiscal agent in the state employee charitable campaign;

(C) a copy of the conflict of interest policy approved by the federation or fund's board of directors, which prohibits its board members, executive director, and staff from engaging in business transactions in which they have material conflicting interests;

(D) if the executive director of the federation or fund receives material compensation for services rendered to any organization other than the federation or fund, a full disclosure of:

(i) the name of the organization;

(ii) the nature and amount of the compensation; and

(iii) the relationship of the organization to the federation or fund;

(E) a copy of the federation or fund's current operating budget, signed by the presiding officer of the federation or fund's board of directors; and

(F) an acknowledgment that the federation or fund is responsible for filing any appeals from its affiliated agencies that have not secured approval for statewide or local participation in the state employee charitable campaign.

(3) Beginning of deductions. The first deduction to pay an eligible local charitable organization shall occur the first month of the first campaign year that begins after the charitable organization is approved for local participation in the state employee charitable campaign.

(i) Payments of deductions.

(1) Prohibited payments to eligible local charitable organizations.

(A) Neither the comptroller nor an institution of higher education may pay deducted amounts directly to an eligible local charitable organization.

(B) Except as otherwise provided in this subparagraph, deducted amounts shall be paid directly to the appropriate local campaign manager if one has been appointed by the state policy committee. If the eligible local charitable organization involved is an affiliate of a statewide federation or fund, then the deducted amounts shall be paid directly to the federation or fund.

(2) Payments by the comptroller through electronic funds transfers. If feasible, the comptroller shall pay deducted amounts to a local campaign manager or a statewide federation or fund by electronic funds transfer.

(3) Payments through warrants issued by the comptroller.

(A) This paragraph applies only if it is infeasible for the comptroller to pay deducted amounts by electronic funds transfer.

(B) The comptroller shall pay deducted amounts by warrant and make the warrant available for pick up by the state agency whose employees' deductions are being paid by the warrant.

(C) A state agency shall mail or hand deliver a warrant picked up under subparagraph (B) of this paragraph to the payee of the warrant.

(D) Except as provided in subparagraph (E) of this paragraph, the deadline for mailing or hand delivering a warrant is the tenth workday of the month following the month when the salary or wages from which the deductions are made were earned.

(E) This subparagraph applies only to a deduction that occurs after the tenth workday of the month following the month when the salary or wages from which the deduction is made were earned. The deadline for a state agency to mail or hand deliver a warrant to pay the deduction is the second workday after the agency receives the warrant.

(4) Payments by institutions of higher education.

(A) This paragraph applies to deducted amounts from the salary or wages of a state employee of an institution of higher education only if the comptroller does not pay those amounts directly to a local campaign manager or a statewide federation or fund.

(B) If feasible, an institution of higher education shall pay deducted amounts to a local campaign manager or a statewide federation or fund by electronic funds transfer.

(C) If it is infeasible for an institution of higher education to pay deducted amounts by electronic funds transfer, then the institution shall make the payment by check.

(D) This subparagraph applies only if an institution of higher education pays deducted amounts by check.

(i) This clause applies only to deductions from salary or wages that are paid on the first workday of a month. An institution of higher education shall mail or hand deliver its check to the payee of the check not later than the 10th workday of the month.

(ii) This clause applies only to deductions from salary or wages that are paid on a day other than the first workday of a month. An institution of higher education shall mail or hand deliver its check to the payee of the check not later than the 10th workday of the month following the month in which the salary or wages were earned.

(j) Distributions of deductions by any local campaign managers appointed by the state policy committee.

(1) Requirement to use the percentage method. A local campaign manager shall use the percentage method to distribute deducted amounts to eligible local charitable organizations and statewide federations or funds.

(2) Description of the percentage method.

(A) Immediately after the end of a state employee charitable campaign, a local campaign manager shall calculate the contribution percentage for:

(i) each eligible local charitable organization that has been approved to participate in the local campaign area under the manager's responsibility; and

(ii) each statewide federation or fund to which state employees in the local campaign area have authorized deductions.

(B) The contribution percentage for an eligible local charitable organization is the ratio of:

(i) the sum of:

(I) the organization's designated initial distribution amount with respect to all state employees in the local campaign area as determined under subsection (c)(1)(C) - (D) of this section; and

(II) the organization's undesignated initial distribution amount with respect to all state employees in the local campaign area as determined under subsection (c)(1)(F)(ii) of this section; to

(ii) the total amount of deductions authorized to the local campaign manager on authorization forms and electronic deduction authorizations completed during the campaign.

(C) The contribution percentage for a statewide federation or fund is the ratio of:

(i) the federation or fund's undesignated initial distribution amount with respect to all state employees in the local campaign area as determined under subsection (c)(1)(F)(iii) of this section; to

(ii) the total amount of deductions authorized to the local campaign manager on authorization forms and electronic deduction authorizations completed during the campaign.

(D) The contribution percentage for an eligible local charitable organization or a statewide federation or fund may not be recalculated before the conclusion of the next state employee charitable campaign.

(E) The amount of deductions that a local campaign manager distributes to an eligible local charitable organization or a statewide federation or fund is equal to the product of:

(i) the contribution percentage of the organization or federation or fund; and

(ii) the total amount of deductions the manager is distributing.

(3) Example of the percentage method. This paragraph illustrates the percentage method described in paragraph (2) of this subsection.

(A) The following assumptions apply in this example.

(i) Organization 1, an eligible local charitable organization, has a designated initial distribution amount of $5,000 and an undesignated initial distribution amount of $1,250.

(ii) Organization 2, an eligible local charitable organization, has a designated initial distribution amount of $3,000 and an undesignated initial distribution amount of $750.

(iii) Organization 3, an eligible local charitable organization, has a designated initial distribution amount of $2,000 and an undesignated initial distribution amount of $500.

(iv) Organization 4, a statewide federation or fund, has an undesignated initial distribution amount of $1,250.

(v) Organization 5, a statewide federation or fund, has an undesignated initial distribution amount of $1,250.

(vi) The total amount of deductions authorized to the local campaign manager is $15,000.

(vii) The local campaign manager has actually received $10,000 in deducted amounts.

(B) The first step is to calculate the contribution percentage for each organization according to paragraph (2)(B) - (C) of this subsection. The contribution percentage for each organization is as follows:

(i) Organization 1--41.67%;

(ii) Organization 2--25%;

(iii) Organization 3--16.67%;

(iv) Organization 4--8.33%;

(v) Organization 5--8.33%.

(C) The second and final step is to calculate the amount that the local campaign manager distributes to each organization according to paragraph (2)(E) of this subsection. The amount for each organization is as follows:

(i) Organization 1--$4,167;

(ii) Organization 2--$2,500;

(iii) Organization 3--$1,667;

(iv) Organization 4--$833;

(v) Organization 5--$833.

(4) Prohibition of distributions until payment reports reconciled. A local campaign manager may not make a distribution before the manager reconciles the payment reports received from the comptroller or an institution of higher education with the payments received by electronic funds transfer or by warrant or check.

(5) Frequency of distributions. A local campaign manager shall make distributions quarterly or more frequently than quarterly.

(k) Distributions of deductions by statewide federations or funds.

(1) Requirement to use the percentage method. A statewide federation or fund shall use the percentage method to distribute deducted amounts to eligible charitable organizations.

(2) Description of the percentage method.

(A) Immediately after the end of a state employee charitable campaign, a statewide federation or fund shall calculate the contribution percentage for each eligible charitable organization that is an affiliate of the federation or fund.

(B) The contribution percentage for an eligible charitable organization is the ratio of:

(i) the sum of:

(I) the organization's designated initial distribution amount with respect to all state employees who have authorized deductions to the statewide federation or fund as determined under subsection (c)(2)(C) - (D) of this section; and

(II) the organization's undesignated initial distribution amount with respect to all state employees who have authorized deductions to the statewide federation or fund as determined under subsection (c)(2)(E) of this section; to

(ii) the total amount of deductions authorized to the statewide federation or fund on authorization forms and electronic deduction authorizations completed during the campaign.

(C) The contribution percentage for an eligible charitable organization may not be recalculated before the conclusion of the next state employee charitable campaign.

(D) The amount of deductions that a statewide federation or fund distributes to an eligible charitable organization is equal to the product of:

(i) the contribution percentage of the organization; and

(ii) the total amount of deductions the federation or fund is distributing.

(3) Example of the percentage method. This paragraph illustrates the percentage method described in paragraph (2) of this subsection.

(A) The following assumptions apply in this example.

(i) Eligible charitable organization 1 has a designated initial distribution amount of $5,000 and an undesignated initial distribution amount of $1,250.

(ii) Eligible charitable organization 2 has a designated initial distribution amount of $3,000 and an undesignated initial distribution amount of $750.

(iii) Eligible charitable organization 3 has a designated initial distribution amount of $2,000 and an undesignated initial distribution amount of $500.

(iv) The total amount of deductions authorized to the statewide federation or fund is $12,500.

(v) The statewide federation or fund has actually received $10,000 in deducted amounts.

(B) The first step is to calculate the contribution percentage for each eligible charitable organization according to paragraph (2)(B) of this subsection. The contribution percentage for each organization is as follows:

(i) Organization 1--50%;

(ii) Organization 2--30%;

(iii) Organization 3--20%.

(C) The second and final step is to calculate the amount that the statewide federation or fund distributes to each organization according to paragraph (2)(D) of this subsection. The amount for each organization is as follows:

(i) Organization 1--$5,000;

(ii) Organization 2--$3,000;

(iii) Organization 3--$2,000.

(4) Prohibition of distributions until payment reports reconciled. A statewide federation or fund may not make a distribution before the federation or fund reconciles the payment reports received from the comptroller or an institution of higher education with the payments received by electronic funds transfer or by warrant or check.

(5) Frequency of distributions. A statewide federation or fund shall make distributions quarterly or more frequently than quarterly.

(l) Charging administrative fees to cover costs incurred to make deductions. The comptroller has determined that the costs which would be covered by the charging of an administrative fee to charitable organizations would be insignificant. Therefore, the comptroller has decided not to charge the fee.

(m) Refunding excessive payments of deductions.

(1) Authorization of refunds. If the amount of deductions paid to a local campaign manager or a statewide federation or fund exceeds the amount that should have been paid, then the excess may be refunded to the state agency on whose behalf the payment was made.

(2) Methods for accomplishing refunds. If a refund is authorized by paragraph (1) of this subsection, then the refund shall be accomplished by:

(A) the state agency on whose behalf the payment was made subtracting the amount of the refund from a subsequent payment of deductions to the local campaign manager or statewide federation or fund; or

(B) the local campaign manager or the statewide federation or fund issuing a check in the amount of the refund to the state agency on whose behalf the payment was made, if authorized by paragraph (3) of this subsection.

(3) Paying refunds by check. A local campaign manager or a statewide federation or fund may issue a refund check only if the payee of the check first submits a written request for the refund to be made by check.

(4) Deadline for paying refunds by check. This paragraph applies only if a local campaign manager or a statewide federation or fund is authorized by paragraph (3) of this subsection to make a refund by check. The local campaign manager or the statewide federation or fund shall ensure that the refund check is received by the payee not later than the 30th day after the date on which the written request for the refund to be made by check is received.

(n) Responsibilities of the state policy committee.

(1) Statutory responsibilities. The state policy committee shall fulfill its statutory responsibilities as set forth in Government Code, Chapter 659, Subchapter I.

(2) Additional responsibilities. In addition to its statutory responsibilities, the state policy committee:

(A) shall establish an annual application, eligibility determination, and appeals period for statewide or local participation in the state employee charitable campaign;

(B) shall determine the eligibility of a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign;

(C) shall review and resolve the appeals of entities not accepted for statewide or local participation in the state employee charitable campaign under procedures that comply with paragraph (3) of this subsection;

(D) shall disqualify a federation or fund from statewide participation in the state employee charitable campaign if the committee determines that the federation or fund intentionally filed an application that contains false or misleading information;

(E) shall establish penalties for non-compliance with this section by a statewide federation or fund, an eligible local charitable organization, the state campaign manager, or any local campaign managers appointed by the state policy committee;

(F) shall establish procedures for the selection and oversight of the state campaign manager and any local campaign managers appointed by the state policy committee;

(G) shall select to act as the state campaign manager:

(i) a federated community campaign organization in accordance with the criteria listed in paragraph (4) of this subsection, if any federated community campaign organization has applied to be the manager; or

(ii) a charitable organization in accordance with the criteria listed in paragraph (4) of this subsection, if no federated community campaign organization has applied to be the manager;

(H) may establish policies and procedures for the operation and administration of the state employee charitable campaign, including policies and procedures about the hearing of any grievance concerning the operation and administration of the campaign;

(I) shall consult with the state campaign manager and the state advisory committee before approving the campaign plan, budget, and materials;

(J) may not approve campaign materials if:

(i) they do not state that statewide federations or funds may or may not provide services in all local campaign areas;

(ii) they list a charitable organization as both a statewide federation or fund and an eligible local charitable organization;

(iii) they list a charitable organization as an affiliate of two or more statewide federations or funds unless the organization serves separate and distinct populations as part of each statewide federation or fund;

(iv) they list similarly named eligible local charitable organizations in the same local campaign area unless the applicable local employee committee, if one has been appointed by the state policy committee, has determined that each organization delivers services in different geographical areas within the local campaign area;

(v) they list a charitable organization as an affiliate of more than one federation or fund certified as an eligible local charitable organization unless the applicable local employee committee, if one has been appointed by the state policy committee, has determined that the charitable organization delivers services to separate and distinct populations in the local campaign area as part of its membership in the federations or funds;

(vi) they do not state that a local campaign manager or a statewide federation or fund may distribute quarterly a state employee's deductions;

(vii) they do not state that a local campaign manager or a statewide federation or fund is required to distribute a state employee's deductions based on the percentage method instead of matching deducted amounts received by the local campaign manager or statewide federation or fund to the employee's designations; or

(viii) they do not accurately describe the percentage method;

(K) shall review and approve or disapprove the generic campaign materials used by the state campaign manager and any local campaign managers appointed by the state policy committee;

(L) shall ensure that local campaign areas do not overlap;

(M) shall ensure that only one local campaign manager, if one has been appointed by the state policy committee, is responsible for solicitation of all state employees in the local campaign area for which the manager has responsibility;

(N) shall submit to the comptroller the name and boundaries of each local campaign area not later than the 30th day after the end of the annual application period;

(O) shall compile and submit to the comptroller not later than the 30th day after the end of the annual application period a list of any local campaign managers appointed by the state policy committee and the name, address, and telephone number of each manager's primary contact;

(P) shall notify the comptroller immediately after a change occurs to the name or mailing address of a statewide federation or fund or local campaign manager;

(Q) shall notify the comptroller immediately after a change occurs to the name, title, telephone number, or mailing address of the primary contact of a local campaign manager or a statewide federation or fund; and

(R) shall represent all statewide federations or funds and local campaign managers for the purposes of:

(i) communicating with the comptroller, including receiving and responding to correspondence from the comptroller; and

(ii) disseminating information, including information about the requirements of this section, to representatives of federations or funds, any local employee committees appointed by the state policy committee, and any local campaign managers appointed by the state policy committee.

(3) Appeals procedures. The procedures that the state policy committee adopts to review and resolve the appeal of an entity that was not accepted for statewide or local participation in the state employee charitable campaign must:

(A) prohibit the consideration of information that the committee has considered previously;

(B) provide sufficient time for a federation or fund to reapply for participation in that campaign; and

(C) permit a federation or fund that was not accepted for statewide participation to apply for participation in a local campaign area during the campaign.

(4) Criteria for selection of a state campaign manager. The state policy committee shall consider the following criteria when evaluating the application of a federated community campaign organization or a charitable organization to act as the state campaign manager:

(A) the number and diversity of voluntary health and human services agencies or affiliates that rely on the organization for financial support;

(B) the capability of the organization to conduct employee campaigns, as demonstrated by records of the amount of funds raised during the organization's last completed annual public solicitation of funds;

(C) the percent of solicited funds received by the organization during its last completed annual public solicitation of funds that were distributed to voluntary health and human services agencies;

(D) the geographic area serviced by the organization; and

(E) the organization's capability and expertise to provide effective campaign counsel and management as demonstrated by staff and equipment resources and examples of past campaign management.

(5) Comptroller's reliance on decisions made by the state policy committee. The comptroller is entitled to rely on the state policy committee's:

(A) determination about the eligibility of a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign;

(B) disqualification of a federation or fund from statewide participation in the state employee charitable campaign; and

(C) other decision unless the committee has no legal authority over the subject covered by the decision.

(o) Responsibilities of the state advisory committee. The state advisory committee shall fulfill its statutory responsibilities as set forth in Government Code, Chapter 659, Subchapter I.

(p) Responsibilities of any local employee committees appointed by the state policy committee.

(1) Statutory responsibilities. A local employee committee shall fulfill its statutory responsibilities as set forth in Government

Code, Chapter 659, Subchapter I, along with any duties prescribed by the state policy committee under Government Code, §659.140.

(2) Additional responsibilities. In addition to its statutory responsibilities and any duties prescribed by the state policy committee under Government Code, §659.140, any local employee committee appointed by the state policy committee:

(A) shall determine the eligibility of a local charitable organization for local participation in the state employee charitable campaign;

(B) may call upon and use outside expertise and resources available to the committee to assess the eligibility of a local charitable organization;

(C) shall disqualify a local charitable organization from local participation in the state employee charitable campaign if the committee determines that the organization intentionally filed an application that contains false or misleading information;

(D) shall, contingent upon the appointment of a local campaign manager by the state policy committee, select to act as the local campaign manager:

(i) a federated community campaign organization in accordance with the criteria listed in paragraph (3) of this subsection, if any federated community campaign organization has applied to be the manager; or

(ii) a charitable organization in accordance with the criteria listed in paragraph (3) of this subsection, if no federated community campaign organization has applied to be the manager;

(E) shall, contingent upon the appointment of a local campaign manager by the state policy committee, contract with the organization selected as the local campaign manager;

(F) shall, contingent upon the appointment of a local campaign manager by the state policy committee, consult with the local campaign manager before approving the local campaign plan, budget, and materials; and

(G) shall, contingent upon the appointment of a local campaign manager by the state policy committee, submit to the state policy committee upon contracting with the organization selected as the local campaign manager:

(i) the name of the local campaign area;

(ii) the name of the organization with which the local employee committee has contracted; and

(iii) the name, address, and telephone number of the primary contact of the local campaign manager.

(3) Criteria for selection of a local campaign manager. A local employee committee shall, contingent upon the appointment of a local campaign manager by the state policy committee, consider the following criteria when evaluating the application of a federated community campaign organization or a charitable organization to act as the local campaign manager:

(A) the number and diversity of voluntary health and human services agencies or affiliates that rely on the organization for financial support;

(B) the capability of the organization to conduct employee campaigns, as demonstrated by records of the amount of funds raised during the organization's last completed annual public solicitation of funds;

(C) the percent of solicited funds received by the organization during its last completed annual public solicitation of funds that were distributed to voluntary health and human services agencies;

(D) the geographic area serviced by the organization; and

(E) the organization's capability and expertise to provide effective campaign counsel and management as demonstrated by staff and equipment resources and examples of past campaign management.

(4) Comptroller's reliance on decisions made by a local employee committee. The comptroller is entitled to rely on a local employee committee's:

(A) determination about the eligibility of a local charitable organization for local participation in the state employee charitable campaign;

(B) disqualification of a local charitable organization from local participation in the state employee charitable campaign; and

(C) other decision unless the committee has no legal authority over the subject covered by the decision.

(q) Responsibilities of the state campaign manager.

(1) Statutory responsibilities. The state campaign manager shall fulfill the manager's statutory responsibilities as set forth in Government Code, Chapter 659, Subchapter I.

(2) Additional responsibilities. In addition to the state campaign manager's statutory responsibilities, the manager shall:

(A) develop the state employee charitable campaign plan in consultation with the state advisory committee;

(B) serve as liaison to the state policy committee, the state advisory committee, any local campaign managers appointed by the state policy committee, and any local employee committees appointed by the state policy committee on behalf of statewide federations or funds and eligible local charitable organizations;

(C) structure the state employee charitable campaign fairly and equitably according to the policies and procedures established by the state policy committee;

(D) provide for involvement of all statewide federations or funds, including the use of their resources, at all levels of the state employee charitable campaign;

(E) conduct the manager's responsibilities on behalf of the state employee participants in the state employee charitable campaign separately from the manager's internal operations;

(F) prepare and submit for review by the state advisory committee a single statewide campaign budget that has been prepared in cooperation with any local campaign managers appointed by the state policy committee and that includes campaign materials, staff time, and other expenses incurred for the state employee charitable campaign;

(G) establish, after consulting with the state advisory committee, the state policy committee, and any local campaign managers appointed by the state policy committee, a uniform campaign reporting form to allow reporting of designated deductions, undesignated deductions, campaign expenses, and other information deemed necessary by the state campaign manager; and

(H) submit a statewide campaign report that complies with paragraph (3) of this subsection.

(3) Statewide campaign reports. A statewide campaign report shall represent a compilation of the local campaign managers' campaign reports, if any local campaign managers have been appointed by the state policy committee. The state campaign manager shall ensure that the state policy committee, the state advisory committee, and the comptroller receive the statewide campaign report not later than February 5th of the calendar year following the calendar year in which the campaign covered by the report ended. If February 5th is not a workday, then the first workday after February 5th is the deadline.

(r) Responsibilities of any local campaign managers appointed by the state policy committee.

(1) Statutory responsibilities. A local campaign manager shall fulfill the manager's statutory responsibilities as set forth in Government Code, Chapter 659, Subchapter I, along with any duties prescribed by the state policy committee under Government Code, §659.140.

(2) Additional responsibilities. In addition to a local campaign manager's statutory responsibilities and any duties prescribed by the state policy committee under Government Code, §659.140, any appointed manager shall:

(A) recruit, train, and supervise state employee volunteers;

(B) involve participating eligible local charitable organizations and statewide federations or funds in the training of state employee volunteers;

(C) consult with eligible local charitable organizations and statewide federations or funds about the operation of the state employee charitable campaign and the preparation of local campaign materials;

(D) provide eligible local charitable organizations and statewide federations or funds with the opportunity to participate in local state employee charitable campaign events and access to all records for the local campaign area;

(E) maintain campaign records for the local campaign area, including total pledges, total pledges by eligible local charitable organization and statewide federation or fund, state agencies contacted, and other records deemed necessary by the state policy committee for organization, control, and progress reporting;

(F) submit to the state campaign manager a final campaign report of designated deductions, undesignated deductions, campaign expenses, and other information deemed necessary by the state campaign manager;

(G) ensure that the state campaign manager receives the local campaign manager's final campaign report not later than January 15th of the calendar year following the calendar year in which the campaign covered by the report ended or, if January 15th is not a workday, not later than the first workday after January 15th;

(H) establish an account at a financial institution for the purpose of receiving payments from the comptroller and institutions of higher education by electronic funds transfer, warrant, or check;

(I) distribute interest accrued during a campaign year as soon as possible after December 31st to each eligible local charitable organization and statewide federation or fund in the same manner that undesignated deductions are distributed, subject to the limitation in paragraph (3) of this subsection;

(J) submit a request to the comptroller to be paid by the comptroller through electronic funds transfers under rules adopted by the comptroller, but only to the extent those transfers are initiated by the comptroller on behalf of the comptroller or other state agencies;

(K) submit a request to an institution of higher education to be paid by the institution through electronic funds transfers under rules or procedures adopted by the institution, but only to the extent those transfers are not initiated by the comptroller on behalf of the institution;

(L) reconcile the payment report provided by the comptroller or an institution of higher education with the amount of deductions paid to the manager;

(M) report to the comptroller or an institution of higher education, as appropriate, each discrepancy between a payment report provided by the comptroller or an institution and the actual amount of deductions received not later than the 30th day after the day on which the comptroller or the institution mailed or delivered the report;

(N) report to each eligible local charitable organization and statewide federation or fund the amount of its undesignated and designated initial distribution amounts as determined under subsection (c)(1) of this section; and

(O) report to each eligible local charitable organization and statewide federation or fund its contribution percentage as determined under subsection (j)(2) of this section.

(3) Limitation on distributions of accrued interest. A local campaign manager may not distribute accrued interest to:

(A) an eligible local charitable organization that did not receive deducted amounts through the manager during the campaign year; or

(B) a statewide federation or fund that did not receive deducted amounts through the manager during the campaign year, unless the only reason for not receiving the deducted amounts through the manager is the direct payment requirement of the second sentence of subsection (i)(1)(B) of this section.

(4) Prohibition against solicitation. A local campaign manager may not solicit a deduction from a state employee at the employee's worksite unless the solicitation is pursuant to the state employee charitable campaign.

(s) Responsibilities of statewide federations or funds.

(1) Reconciliation of payment reports. A statewide federation or fund shall reconcile the payment report provided by the comptroller or an institution of higher education with the amount of deductions paid to the federation or fund.

(2) Reports of discrepancies.

(A) A statewide federation or fund shall report to the comptroller or an institution of higher education, as appropriate, each discrepancy between a payment report provided by the comptroller or an institution and the actual amount of deductions received.

(B) A report of discrepancies is due not later than the 30th day after the day on which the comptroller or the institution of higher education mailed or delivered the report.

(3) Prohibition against solicitation. A statewide federation or fund may not solicit a deduction from a state employee at the employee's worksite unless the solicitation is pursuant to the state employee charitable campaign.

(t) Prohibition against certain solicitation by eligible local charitable organizations. An eligible local charitable organization may not solicit a deduction from a state employee at the employee's

worksite unless the solicitation is pursuant to the state employee charitable campaign.

(u) Acceptance of authorization forms and electronic deduction authorizations by state agencies.

(1) Prohibition against accepting certain authorization forms and electronic deduction authorizations. A state agency may accept an authorization form or electronic deduction authorization only if it complies with the comptroller's requirements.

(2) Reviewing authorization forms and electronic deduction authorizations. An authorization form or electronic deduction authorization submitted by a state employee to a state agency must be reviewed by the agency's campaign coordinator to ensure that the form or electronic deduction authorization has been completed properly.

(3) Acceptance of altered authorization forms and electronic deduction authorizations. A state agency is not required to accept an authorization form or electronic deduction authorization that contains an obvious alteration without the appropriate state employee's written consent to the alteration.

(4) Review of online giving tool website and application data by agency campaign coordinator. A state agency's campaign coordinator may view the data from the online giving tool website and application to ensure that the information has been completed properly and to validate the accuracy of the information.

(v) Payment reports.

(1) Monthly submission of payment reports.

(A) An institution of higher education shall submit a payment report each month to each local campaign manager or statewide federation or fund that has received during the month deducted amounts from the institution's state employees.

(B) The comptroller shall submit a payment report each month to each local campaign manager or statewide federation or fund that has received during the month deducted amounts through the comptroller's electronic funds transfer system.

(2) Information included in payment reports.

(A) An institution of higher education's payment report must include the amount and date of each check written to or electronic funds transfer made to a local campaign manager or a statewide federation or fund by the institution.

(B) The comptroller's payment report must include the amount and date of each electronic funds transfer made to a local campaign manager or statewide federation or fund by the comptroller.

(3) Format of payment reports. An institution of higher education's payment report must be in the format prescribed by the comptroller.

(4) Deadline for submission of payment reports.

(A) Except as otherwise provided in this subparagraph, an institution of higher education shall mail or deliver a payment report not later than the tenth workday of the month in which the institution paid the deducted amounts covered by the report. For deductions from salary or wages paid by an institution of higher education after the tenth workday of a month, the institution may include the deductions in the institution's payment report for the following month.

(B) Except as otherwise provided in this subparagraph, the comptroller shall mail or deliver a payment report not later than the fifth workday of the month in which the comptroller paid the deducted amounts covered by the report. For deductions from salary or wages paid by the comptroller after the first workday of a month, the comptroller may include the deductions in the comptroller's payment report for the following month.

(w) Complaints by state employees about coercive activity.

(1) Definition.

(A) In this section, "coercive activity" includes:

(i) a state agency or its representative pressuring a state employee to participate in a state employee charitable campaign;

(ii) a state agency or its representative inquiring about:

(I) whether a state employee has chosen to participate in a state employee charitable campaign; or

(II) the amount of a state employee's deduction except as necessary to administer the deduction;

(iii) a state agency or its representative establishing a goal for 100% of the agency's state employees to authorize a deduction;

(iv) a state agency or its representative establishing a dollar contribution goal or quota for a state employee;

(v) a state agency, a statewide federation or fund, a local campaign manager, or a representative of the preceding developing or using a list of state employees who did not complete an authorization form or electronic deduction authorization during a state employee charitable campaign;

(vi) a state agency, a statewide federation or fund, a local campaign manager, or a representative of the preceding using or providing to others a list of state employees who completed an authorization form or electronic deduction authorization during a state employee charitable campaign, unless the purpose of the list is to make a deduction or transmit deducted amounts to a local campaign manager or a statewide federation or fund; and

(vii) a state agency or its representative using as a factor in a performance appraisal the results of a state employee charitable campaign in a particular section, division, or other level of the agency.

(B) Notwithstanding subparagraph (A) of this paragraph, "coercive activity" does not include:

(i) the head of a state agency's participation in the customary activities associated with a state employee charitable campaign; or

(ii) the head of a state agency's demonstration of support for the campaign in newsletters or other routine communications with state employees.

(2) Submission of complaints to the comptroller. A state employee may submit a written complaint to the comptroller when the employee believes that coercive activity has occurred in a state employee charitable campaign.

(3) Investigation by the comptroller of complaints.

(A) The comptroller shall investigate a state employee's written complaint about coercive activity. The comptroller shall mail or deliver a description of the comptroller's findings about the complaint to the employee not later than the 30th day after the comptroller receives the complaint.

(B) If the comptroller finds that coercive activity has occurred, then the comptroller shall mail or deliver notice of the finding

to the state policy committee not later than the 30th day after the comptroller makes the finding.

(4) Action by the state policy committee.

(A) If the state policy committee receives written notification that the comptroller has found that coercive activity has occurred, then the committee shall take appropriate action. Actions that the state policy committee may take include suspension of the person or entity that engaged in the coercive activity from participation in the state employee charitable campaign for one campaign year.

(B) A person or entity that has been suspended from the state employee charitable campaign for a campaign year may apply to the state policy committee for participation in the campaign for the next campaign year.

(x) Public junior colleges and their employees.

(1) Classification as institutions of higher education and state employees. For the purposes of this section, a public junior college is considered to be an institution of higher education and the college's employees are considered to be state employees unless the college's governing board affirmatively decides for the college not to participate in the state employee charitable contribution program.

(2) Decisions not to participate in the state employee charitable contribution program.

(A) The decision of a public junior college's governing board for the college not to participate in the state employee charitable contribution program is effective for only one fiscal year.

(B) To be valid, the decision of a public junior college's governing board for the college not to participate in the state employee charitable contribution program for a fiscal year must be made not earlier than September 1 and not later than April 1 of the preceding fiscal year.

(C) A public junior college's governing board shall ensure that the state campaign manager receives written notice of the board's decision for the college not to participate in the state employee charitable contribution program. The board's failure to comply with this requirement does not, however, invalidate that decision.

(3) Charitable deductions outside the state employee charitable contribution program.

(A) This paragraph applies to a public junior college only if the college's governing board has decided for the college not to participate in the state employee charitable contribution program.

(B) The governing board of a public junior college may allow the college's employees to authorize deductions from their salaries or wages for charitable contributions. The deductions must be voluntary.

(C) The deductions must be made in accordance with any policies adopted by the board. Except for this paragraph, this section does not apply to those deductions.

(y) Requirements for online giving tool website and application.

(1) An online giving tool website and/or application may be used by a state employee to submit an electronic deduction authorization only if both the comptroller and the state policy committee have approved the online giving tool website and/or application.

(2) Restrictions on approval of online giving tool website and/or application. Neither the comptroller nor the state policy committee may approve an online giving tool website and/or application unless the electronic deduction authorization produced through the electronic online giving tool:

(A) states that statewide federations or funds and local campaign managers are required to use the percentage method to distribute a state employee's deducted amounts to eligible charitable organizations designated by the employee instead of matching deducted amounts received to actual designations;

(B) accurately describes the percentage method; and

(C) complies with the comptroller's requirements for format and substance.

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

Filed with the Office of the Secretary of State on August 15, 2025.

TRD-202502947
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 475-2220

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SUBCHAPTER F. CLAIMS PROCESSING--GENERAL REQUIREMENTS

34 TAC §5.61

The Comptroller of Public Accounts proposes amendments to §5.61, concerning approval and certification of certain payment, SPRS, and USPS documents.

No legislation was enacted within the last four years that provides the statutory authority for the amendments.

The amendments to §5.61 delete all references to "USPS" (Uniform Statewide Payroll/Personnel System) throughout this section because USPS is no longer used by the comptroller.

The amendments to subsection (a) alphabetize the definitions for ease of use; delete the definition of "appropriation year" in paragraph (1) because the term does not appear anywhere else in this section; change "comptroller of public accounts" to "Comptroller of Public Accounts" in paragraph (4) to format the term the same as it is formatted in other sections of Chapter 5; and delete the definitions of "USPS" and "USPS document" in paragraphs (18) and (19) respectively because USPS is no longer used by the comptroller.

The amendments to subsection (i) shorten from ten days to five days the deadline by which the comptroller must receive written notice of a revocation by a governing body of an authorization of a presiding officer or executive director to designate individuals to approve the agency's payment and SPRS documents in paragraph (1)(B), and the deadline by which the comptroller must receive written notice of a revocation by a head of agency of the authorization of a chief deputy to designate individuals to approve the agency's payment and SPRS documents in paragraph (2)(A) because modern communication methods, such as email, can be used to provide faster notice than was available when this section was written, preventing an individual from approving, or designating others from approving, the agency's payment and

SPRS documents after the individual's authorization has been revoked.

The amendments to subsection (k) shorten from ten days to five days the deadline in paragraphs (1)(D) and (2)(C) by which the comptroller must receive written notice of a revocation of the designation of an individual to approve payment and SPRS document if the individual does not have a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment; set forth a process in new paragraphs (1)(E) and (2)(D) for notifying the comptroller of the revocation of the designation of an individual to approve payment and SPRS documents if the individual has a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment and SPRS documents, and describe the process, in paragraph (3)(B) and new paragraph (3)(C), for notifying the comptroller of the revocation of an individual's authority to approve payment and SPRS documents if the individual's employment has been terminated because modern communication methods, such as email, can be used to provide faster notice than was available when this section was written, preventing an individual from approving, or designating others to approve, the agency's payment and SPRS documents after the individual's authorization has been revoked.

The amendments to subsection (o) change the Penal Code reference in paragraph (5) from "§33.02(b)" to "§33.02" to correct the statutory reference.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rule would have no fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by improving the clarity and implementation of the sections. There would be no anticipated economic cost to the public. The proposed amended rule would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Clarisse Roquemore, Director, Fiscal Management Division, at clarisse.roquemore@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §2101.035(a), which authorizes the comptroller to adopt procedures and rules for the effective operation of the uniform statewide accounting system. The amendments are also proposed under Government Code, §2103.032(a), which authorizes the comptroller by rule to establish a system for state agencies to submit and approve vouchers electronically if the comptroller determines that the system will facilitate the operation and administration of the uniform statewide accounting system.

The amendments implement Government Code, §2101.035 regarding administration of USAS and §2103.032 regarding approval and submission of vouchers.

§5.61. Approval and Certification of Certain Payment and[, SPRS[, ~~and USPS~~] Documents.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

[~~(1) Appropriation year--The accounting period beginning on September 1st and ending the following August 31st.~~]

(1) [~~(2)~~] Certification--A state agency's declaration to the comptroller that:

(A) the goods or services received by the agency comply with contract requirements; and

(B) the invoice received by the agency for the goods or services is correct.

(2) [~~(3)~~] Chief deputy--For a state agency that is administered by an elected or appointed state official, the individual authorized by law to administer the agency during the official's absence or inability to act.

(3) [~~(4)~~] Comptroller--The Comptroller of Public Accounts [~~comptroller of public accounts~~] for the State of Texas.

(4) [~~(5)~~] Executive director--The individual who is the chief administrative officer of a state agency that is headed by a governing body. The term excludes a member of that body.

(5) [~~(6)~~] Governing body--The board, commission, committee, council, or other group of individuals that is collectively authorized by law to administer a state agency.

(6) [~~(7)~~] Head of agency--The elected or appointed state official who is authorized by law to administer a state agency.

(7) [~~(8)~~] Include--A term of enlargement and not of limitation or exclusive enumeration. The use of the term does not create a presumption that components not expressed are excluded.

(8) [~~(9)~~] Institution of higher education--Has the meaning assigned by Education Code, §61.003.

(9) Mail code--The three-digit number associated with a Texas identification number that documents disbursement instructions.

(10) May not--A prohibition. The term does not mean "might not" or its equivalents.

(11) Non-payment document--The paper or electronic document that a state agency submits to the comptroller for the purpose of requesting the comptroller to post or correct certain accounting information in USAS. The term does not include a payment or[, SPRS[, ~~or USPS~~] document.

[~~(12) Texas identification number--The 11 digit number that the comptroller assigns to each payee of a warrant issued or electronic funds transfer initiated by the comptroller.~~]

[~~(13) Mail code--The three digit number associated with a Texas identification number that documents disbursement instructions.~~]

(12) [~~(14)~~] Payment document--The paper or electronic document that a state agency submits to the comptroller for the purpose of requesting the comptroller to make a payment on the agency's behalf. The term includes a document that uses the appropriated or other funds of a state agency to make a payment to another state

agency. The term does not include a [~~USPS or~~] SPRS document or a non-payment document.

(13) [~~(15)~~] Payroll document--The type of payment document that the comptroller requires a state agency to submit when requesting payment of the compensation of state officers and employees or certain other types of payments. The term does not include a [~~USPS or~~] SPRS document.

(14) [~~(16)~~] State agency--A department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of Texas state government, the jurisdiction of which is not limited to a geographical portion of this state. The term includes an institution of higher education.

(15) Texas identification number--The 11-digit number that the comptroller assigns to each payee of a warrant issued or electronic funds transfer initiated by the comptroller.

(16) [~~(17)~~] USAS--The uniform statewide accounting system.

~~[(18) USPS--The uniform statewide payroll/personnel system.]~~

~~[(19) USPS document--The document that a state agency electronically submits to USPS for the purpose of requesting the comptroller to pay the compensation of state officers and employees or to make certain other types of payments. The term does not include a payment, SPRS, or non-payment document.]~~

(17) [~~(20)~~] SPRS--The standardized payroll/personnel reporting system.

(18) [~~(21)~~] SPRS document--The document that a state agency electronically submits to SPRS for the purpose of requesting the comptroller to pay the compensation of state officers and employees or to make certain other types of payments. The term does not include a payment[~~, USPS,~~] or non-payment document.

(b) Required approval and certification of payment and [~~USPS or~~] SPRS documents.

(1) General Requirements. The comptroller may not make a payment on behalf of a state agency unless:

(A) the agency properly submits a payment or [~~USPS or~~] SPRS document to the comptroller requesting the payment;

(B) the document has been approved according to this section; and

(C) the requirements, if applicable, of paragraph (2) of this subsection have been satisfied.

(2) Certification of payment and [~~USPS or~~] SPRS documents. To the extent a payment or[~~,~~] SPRS[~~, or USPS~~] document requests payment of anything other than the compensation of a state officer or employee, a certification concerning the document must be given to the comptroller according to this section.

(3) Multiple approvals of payment and [~~USPS or~~] SPRS documents.

(A) If a payment document is approved more than once, the individual who provides the last approval is responsible for the truth and accuracy of the statement in subsection (o)(2)(B) of this section.

(B) If a [~~USPS or~~] SPRS document is approved more than once, the individual who provides the last approval is responsible for the truth and accuracy of the statement in subsection (o)(4)(B) of this section.

(c) Combined approval and certification of payment and [~~USPS or~~] SPRS documents.

(1) Automatic certification. When an individual approves a payment or [~~USPS or~~] SPRS document, the individual automatically provides its certification if the certification is required by subsection (b)(2) of this section. An individual may not approve a payment or [~~USPS or~~] SPRS document without also providing its required certification.

(2) Automatic approval. When an individual provides the required certification for a payment or[~~,~~] SPRS[~~, or USPS~~] document, the individual automatically approves it. An individual may not provide the required certification for a payment or[~~,~~] SPRS[~~, or USPS~~] document without also approving it.

(3) References. A specific reference in subsections (e) - (q) of this section to the approval of a payment or[~~,~~] SPRS[~~, or USPS~~] document is also a reference to any required certification provided for that document.

(d) Fact findings concerning the electronic approval of payment and [~~USPS or~~] SPRS documents.

(1) Security. The comptroller has determined that the degree of security provided by the electronic approval of payment and [~~USPS or~~] SPRS documents under this section is at least equal to the degree of security that would be provided by the non-electronic approval of those documents.

(2) Operation and maintenance of USAS. The comptroller has determined that the electronic approval of payment and [~~USPS or~~] SPRS documents under this section would facilitate the operation and administration of USAS.

(e) Who may not approve payment and [~~USPS or~~] SPRS documents.

(1) State officers and employees.

(A) An officer or employee of a state agency may not approve and may not be designated to approve another agency's payment and [~~USPS or~~] SPRS documents.

(B) This subparagraph applies when a state agency submits a payment or[~~,~~] SPRS[~~, or USPS~~] document that requests payment out of the funds of a second state agency. No officer or employee of the agency that submits the document may approve it.

(2) Individuals not employed by a state agency. An individual who is not employed by a state agency may not approve and may not be designated to approve a state agency's payment or[~~,~~] SPRS[~~, or USPS~~] documents.

(f) Who may approve payment and [~~USPS or~~] SPRS documents.

(1) Generally. Only an individual who is described in paragraph (2) or (4) of this subsection may approve a payment or[~~,~~] SPRS[~~, or USPS~~] document. When this section refers to an individual approving a payment or[~~,~~] SPRS[~~, or USPS~~] document without further qualification or description, the reference is only to an individual who may approve a payment or[~~,~~] SPRS, or USPS document under this paragraph.

(2) Individuals with inherent authority to approve payment and [~~USPS or~~] SPRS documents.

(A) The presiding officer of the governing body of a state agency may approve a payment or[~~,~~] SPRS[~~, or USPS~~] document of the agency after:

(i) the comptroller has received a signature card that complies with subsection (l) of this section; and

(ii) the officer's security profile has been established according to:

(I) USAS security's procedures and requirements if the approval is of a payment document; or

(II) [~~USPS or~~] SPRS security's procedures and requirements if the approval is of a SPRS [~~USPS~~] document.

(B) This subparagraph applies only to a state agency that is headed by an elected or appointed state official. The agency's head of agency may approve a payment or[,] SPRS[~~, or USPS~~] document of the agency after:

(i) the comptroller has received a signature card that complies with subsection (l) of this section; and

(ii) the head of agency's security profile has been established according to:

(I) USAS security's procedures and requirements if the approval is of a payment document; or

(II) [~~USPS or~~] SPRS security's procedures and requirements if the approval is of a [~~USPS or~~] SPRS document.

(C) Notwithstanding subparagraphs (A)(ii) and (B)(ii) of this paragraph, a presiding officer or a head of agency may provide non-electronic approval of a payment or[,] SPRS[~~, or USPS~~] document without establishing a security profile. This subparagraph applies only if the comptroller does not require the approval to be provided electronically.

(3) USAS and [~~USPS or~~] SPRS security profile changes.

(A) This paragraph applies only when an individual ceases being either the presiding officer of a governing body or a head of agency.

(B) The individual's security profile in USAS, if any, must be changed so that USAS no longer recognizes the individual's user identification number as belonging to an individual who has authority to approve payment documents. The individual's security profile in [~~USPS or~~] SPRS, if any, must be changed so that [~~USPS or~~] SPRS no longer recognizes the individual's user identification number as belonging to an individual who has authority to approve [~~USPS or~~] SPRS documents. The changes must take effect not later than the date the individual ceases being the presiding officer or head of agency.

(C) The security coordinator of the state agency with which the individual serves as presiding officer or head of agency is responsible for requesting the comptroller to change the individual's security profiles.

(D) If the comptroller determines that a security coordinator has not complied with subparagraph (C) of this paragraph, then the comptroller may unilaterally change the security profiles.

(E) This subparagraph applies to a payment or[,] SPRS[~~, or USPS~~] document only if the comptroller determines that an individual approved the document after the individual ceased being a presiding officer or a head of agency. The comptroller may take any necessary steps to prevent a warrant from being issued or an electronic funds transfer from being initiated until the document is properly approved. If the comptroller is unable to prevent a warrant from being issued or an electronic funds transfer from being initiated, then the comptroller may take any necessary steps to prevent the warrant from being honored or to reverse the electronic funds transfer. The state agency whose payment or[,] SPRS[~~, or USPS~~] document results in the warrant or electronic funds transfer shall cooperate fully with the comptroller.

(4) Individuals without inherent authority but who may be designated to approve payment documents. An officer or employee of a state agency who does not have inherent authority to approve the agency's payment and [~~USPS or~~] SPRS documents may be designated to approve those documents. A designation is valid only if it is made:

(A) by someone with the authority to make designations; and

(B) according to the procedures required by this section.

(g) Who may designate individuals to approve payment and [~~USPS or~~] SPRS documents.

(1) State agencies headed by a governing body.

(A) The governing body of a state agency may designate one or more individuals to approve its payment and [~~USPS or~~] SPRS documents.

(B) The governing body of a state agency may authorize the governing body's presiding officer or the agency's executive director, or both, to designate one or more individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The presiding officer or executive director may make a designation only if the authorization is effective according to subsection (h)(1) of this section.

(2) State agencies headed by an elected or appointed state official.

(A) The head of agency of a state agency may designate one or more individuals to approve the agency's payment and [~~USPS or~~] SPRS documents.

(B) The head of agency of a state agency may authorize the agency's chief deputy to designate one or more individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The chief deputy may make a designation only if the authorization is effective according to subsection (h)(2) of this section.

(h) How to authorize individuals to designate other individuals to approve payment and [~~USPS or~~] SPRS documents.

(1) State agencies headed by a governing body.

(A) The authorization of a presiding officer or executive director to designate individuals to approve payment and [~~USPS or~~] SPRS documents is effective only after the comptroller has received proper written notice of the authorization.

(B) Written notice to the comptroller is proper only if the notice satisfies the requirements of this subparagraph.

(i) The notice must be:

(I) a certified copy of the minutes of the meeting of the governing body during which it made the authorization; or

(II) a letter, memorandum, or other writing.

(ii) If the notice consists of a copy of the minutes, then the copy must be certified and signed by:

(I) the presiding officer of the governing body; or

(II) the member of the governing body who is responsible for keeping those minutes.

(iii) If the notice is in the form of a letter, memorandum, or other writing, then it must be signed by the presiding officer of the governing body.

(iv) The notice must state in substance that the governing body has authorized the presiding officer or executive director, as applicable, to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents.

(v) The notice must state an effective date for the authorization.

(C) The authorization of a presiding officer or executive director to designate individuals to approve payment and [~~USPS or~~] SPRS documents may be of a named individual or, alternatively, anyone who holds the position of presiding officer or executive director.

(i) If the comptroller receives notification that a governing body has authorized the "presiding officer" or the "executive director," then the body is deemed to have authorized whoever holds the position of presiding officer or executive director.

(ii) If the comptroller receives notification that a governing body has authorized a named individual, then the body is deemed to have decided that its authorization terminates automatically upon the individual's leaving the position of presiding officer or executive director.

(D) The authorization of a presiding officer or executive director may not be limited to designating individuals to approve only payment documents or only [~~USPS and~~] SPRS documents. If the comptroller receives notification that a governing body has authorized the presiding officer or executive director to designate individuals to approve only one type of document, then the body is deemed to have authorized the designation of individuals to approve both types of documents.

(2) State agencies headed by an elected or appointed state official.

(A) The authorization of a chief deputy to designate individuals to approve payment and [~~USPS or~~] SPRS documents is effective only after the comptroller has received proper written notice of the authorization.

(B) Written notice to the comptroller is proper only if the notice:

(i) contains the head of agency's original signature;

(ii) states in substance that the head of agency has authorized the chief deputy to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents; and

(iii) states an effective date for the authorization.

(C) The authorization of a chief deputy to designate individuals to approve payment and [~~USPS or~~] SPRS documents may be of a named individual or, alternatively, anyone who holds the position of chief deputy.

(i) If the comptroller receives notification that a head of agency has authorized the "chief deputy," then the head of agency is deemed to have authorized whoever holds the position of chief deputy.

(ii) If the comptroller receives notification that a head of agency has authorized a named individual, then the head of agency is deemed to have decided that the authorization terminates automatically upon the individual's leaving the position of chief deputy.

(D) The authorization of a chief deputy may not be limited to designating individuals to approve only payment documents or only [~~USPS and~~] SPRS documents. If the comptroller receives notification that a head of agency has authorized the chief deputy to designate individuals to approve only one type of document, then the head of agency is deemed to have authorized the designation of individuals to approve both types of documents.

(i) How to revoke authorizations of individuals to designate other individuals to approve payment and [~~USPS or~~] SPRS documents.

(1) State agencies headed by a governing body.

(A) The governing body of a state agency may revoke its authorization of a presiding officer or executive director to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents.

(B) If a governing body revokes an authorization, then the body's presiding officer shall ensure that the comptroller receives written notice of the revocation not later than the fifth [~~tenth~~] day after its effective date.

(C) If the comptroller determines that an individual made a designation after the effective date of the revocation of the individual's authority to make designations, then the comptroller may not recognize the designation.

(D) This subparagraph applies only if the governing body of a state agency has authorized a named individual to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents.

(i) The comptroller shall stop recognizing the authorization of an individual who, at the time of the authorization, was the body's presiding officer if the comptroller determines that the individual no longer holds that position.

(ii) The comptroller shall stop recognizing the authorization of an individual who, at the time of the authorization, was the agency's executive director if the comptroller determines that the individual no longer holds that position.

(iii) A determination under clause (i) or (ii) of this subparagraph may be based on any information the comptroller deems credible.

(E) A change in the membership of a governing body does not automatically revoke an authorization made by that body. Whether an authorization would be revoked automatically by the abolishment of a governing body, the wholesale substitution of one governing body for another, or the transfer of a state agency from the jurisdiction of one governing body to another would depend on the legislation enacting the abolishment, substitution, or transfer.

(2) State agencies headed by an elected or appointed state official.

(A) The head of agency of a state agency may revoke the authorization of a chief deputy to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The head of agency shall ensure that the comptroller receives written notice of the revocation not later than the fifth [~~tenth~~] day after its effective date. If the comptroller determines that an individual made a designation after the effective date of the revocation of the individual's authority to make designations, then the comptroller may not recognize the designation.

(B) This subparagraph applies only if the head of agency of a state agency has authorized a named individual to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The comptroller shall stop recognizing the authorization of an individual who, at the time of the authorization, was the chief deputy if the comptroller determines that the individual no longer holds that position. This determination may be based on any information the comptroller deems credible.

(C) When an individual stops being the head of agency of a state agency, all authorizations made by that individual are revoked automatically. Whether an authorization would be revoked automatically by the transfer of a state agency from the jurisdiction of one head of agency to another would depend on the legislation enacting the abolishment, substitution, or transfer.

(j) How to designate individuals to approve payment and [~~USPS or~~] SPRS documents.

(1) State agencies headed by a governing body.

(A) An individual who has been designated to approve a state agency's payment and [~~USPS or~~] SPRS documents may approve one of those documents if:

(i) the comptroller has received proper written notice of the designation;

(ii) the comptroller has received a signature card that complies with subsection (l) of this section; and

(iii) the individual's security profile has been established according to:

(I) USAS security's procedures and requirements if the approval is of a payment document; or

(II) [~~USPS or~~] SPRS security's procedures and requirements if the approval is of a [~~USPS or~~] SPRS document.

(B) Written notice to the comptroller is proper only if the notice satisfies the requirements of this subparagraph.

(i) The notice must be:

(I) a certified copy of the minutes of the meeting of the governing body during which it made the designation; or

(II) a letter, memorandum, or other writing.

(ii) If the notice consists of a copy of the minutes, then the copy must be certified and signed by:

(I) the presiding officer of the governing body; or

(II) the member of the governing body who is responsible for keeping those minutes.

(iii) If the notice is in the form of a letter, memorandum, or other writing, then it must be signed by:

(I) the presiding officer of the governing body if it made the designation; or

(II) the individual who made the designation if the governing body did not.

(iv) The notice must:

(I) identify the governing body or individual who made the designation;

(II) list the legal name of the designated individual;

(III) state an effective date for the designation; and

(IV) say in substance that the individual has been designated to approve payment and [~~USPS or~~] SPRS documents.

(C) Notwithstanding subparagraph (A)(iii) of this paragraph, an individual may provide non-electronic approval of a payment or[~~,~~] SPRS[~~, or USPS~~] document without establishing a security profile. This subparagraph applies only if the comptroller does not require the approval to be provided electronically.

(D) The designation of an individual to approve payment or[~~,~~] SPRS[~~, or USPS~~] documents must be of a named individual. The designation may not be of just anyone who holds a particular office or position. If the comptroller receives notification that a particular office or position has been designated, then the designation will be deemed to have been of the individual who holds the office or position as of the date the designation is made. The comptroller's failure to specifically refuse to recognize the designation of an office or position does not constitute the comptroller's acceptance of the designation of the office or position.

(E) The designation of an individual may not be limited to approving only payment documents or only [~~USPS and~~] SPRS documents. If the comptroller receives notification that an individual has been designated to approve only one type of document, then the designation will be deemed to include approval of both types of documents.

(2) State agencies headed by an elected or appointed state official.

(A) An individual who has been designated to approve a state agency's payment and [~~USPS or~~] SPRS documents may approve one of those documents if:

(i) the comptroller has received proper written notice of the designation;

(ii) the comptroller has received a signature card that complies with subsection (l) of this section; and

(iii) the individual's security profile has been established according to:

(I) USAS security's procedures and requirements if the approval is of a payment document; or

(II) [~~USPS or~~] SPRS security's procedures and requirements if the approval is of a [~~USPS or~~] SPRS document.

(B) Written notice to the comptroller is proper only if the notice:

(i) is signed by the individual who made the designation;

(ii) lists the legal name of the designated individual;

(iii) says who made the designation;

(iv) states an effective date for the designation; and

(v) says in substance that the individual has been designated to approve payment and [~~USPS or~~] SPRS documents.

(C) Notwithstanding subparagraph (A)(iii) of this paragraph, an individual may provide non-electronic approval of a payment or[~~,~~] SPRS[~~, or USPS~~] document without establishing a security profile. This subparagraph applies only if the comptroller does not require the approval to be provided electronically.

(D) The designation of an individual to approve payment and [~~USPS or~~] SPRS documents must be of a named individual. The designation may not be of just anyone who holds a particular office or position. If the comptroller receives notification that a particular office or position has been designated, then the designation will be deemed to have been of the individual who holds the office or position as of the date the designation is made. The comptroller's failure to specifically refuse to recognize the designation of an office or position does not constitute the comptroller's acceptance of the designation of the office or position.

(E) The designation of an individual may not be limited to approving only payment documents or only [~~USPS and~~] SPRS documents. If the comptroller receives notification that an individual has been designated to approve only one type of document, then the designation will be deemed to include approval of both types of documents.

(k) How to revoke designations of individuals to approve payment and [~~USPS or~~] SPRS documents.

(1) State agencies headed by a governing body.

(A) The governing body of a state agency may, at anytime, revoke the designation of an individual to approve the agency's payment and [~~USPS or~~] SPRS documents, regardless of who made the designation.

(B) This subparagraph applies only if a state agency's presiding officer is authorized to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The presiding officer may revoke the designation of an individual only if:

(i) the presiding officer made the designation;

(ii) an individual who previously held the position of presiding officer made the designation while holding that position;

(iii) the agency's executive director made the designation; or

(iv) an individual who previously held the position of executive director made the designation while holding that position.

(C) This subparagraph applies only if a state agency's executive director is authorized to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The executive director may revoke the designation of an individual only if:

(i) the executive director made the designation; or

(ii) an individual who previously held the position of executive director made the designation while holding that position.

(D) If the designation of an individual to approve payment and [~~USPS or~~] SPRS documents is revoked and the individual does not have a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, then the comptroller must receive written notification of the revocation not later than the fifth [~~tenth~~] day after the revocation decision is made. [~~The ten day period starts running when the revocation decision is made, not when the revocation takes effect.~~] The notification must be provided by the presiding officer of a governing body if that body revoked the designation. Otherwise, the notification must be provided by the individual who revoked the designation.

(E) If the designation of an individual to approve payment and SPRS documents is revoked and the individual has a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, then the comptroller must receive notification of the revocation not later than the date the revocation decision is made. The notification must be provided by the security coordinator of the state agency that revoked the designation.

(F) [~~(E)~~] A change in the membership of a state agency's governing body does not automatically revoke the body's designation of any individual to approve payment and [~~USPS or~~] SPRS documents. Whether designations would be revoked automatically by the abolishment or creation of a governing body, the substitution of one governing body for another, or the transfer of a state agency from the jurisdiction of one governing body to another would depend on the legislation that enacts the change.

(G) [~~(F)~~] A notification to the comptroller under subparagraph (D) of this paragraph must satisfy the requirements of this subparagraph.

(i) The notification must be:

(I) a certified copy of the minutes of the meeting of the governing body during which it revoked the designation; or

(II) a letter, memorandum, or other writing.

(ii) If the notification consists of a copy of the minutes, then the copy must be certified and signed by:

(I) the presiding officer of the governing body; or

(II) the member of the governing body who is responsible for keeping those minutes.

(iii) If the notification is in the form of a letter, memorandum, or other writing, then it must be signed by:

(I) the presiding officer of the governing body if it revoked the designation; or

(II) the individual who revoked the designation if the governing body did not.

(iv) The notification must:

(I) identify the governing body or individual who revoked the designation;

(II) list the legal name of the individual whose designation is revoked;

(III) state an effective date for the revocation; and

(IV) say in substance that the individual's designation to approve payment and [~~USPS or~~] SPRS documents is revoked.

(2) State agencies headed by an elected or appointed state official.

(A) The head of agency of a state agency may, at anytime, revoke the designation of an individual to approve the agency's payment and [~~USPS or~~] SPRS documents, regardless of who made the designation.

(B) This subparagraph applies only if a state agency's chief deputy is authorized to designate individuals to approve the agency's payment and [~~USPS or~~] SPRS documents. The chief deputy may revoke the designation of an individual only if:

(i) the chief deputy made the designation; or

(ii) an individual who previously held the position of chief deputy made the designation while holding that position.

(C) If the designation of an individual to approve payment and [~~USPS or~~] SPRS documents is revoked and the individual does not have a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, then the comptroller must receive written notification of the revocation not later than the fifth [~~tenth~~] day after the revocation is made. [~~The ten day period starts running when the revocation decision is made, not when the revocation takes effect.~~] The notification must be provided by the individual who revoked the designation.

(D) If the designation of an individual to approve payment and SPRS documents is revoked and the individual has a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, then the comptroller

must receive notification of the revocation not later than the date the revocation decision is made. The notification must be provided by the security coordinator of the state agency that revoked the designation.

(E) [~~(D)~~] A change in a state agency's head of agency does not automatically revoke the head of agency's designation of any individual to approve payment and [~~USPS or~~] SPRS documents. Whether designations would be revoked automatically by the transfer of a state agency from the jurisdiction of one head of agency to another would depend on the legislation that enacts the change.

(F) [~~(E)~~] A notification to the comptroller under subparagraph (C) of this paragraph must:

(i) be signed by the individual who revoked the designation;

(ii) identify the individual who revoked the designation;

(iii) list the legal name of the individual whose designation is revoked;

(iv) state an effective date for the revocation; and

(v) say in substance that the individual's designation to approve payment and [~~USPS or~~] SPRS documents is revoked.

(3) Mandatory revocations because of termination of employment.

(A) This paragraph applies to all state agencies.

(B) When an individual terminates employment with a state agency and does not have a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, the individual's designation to approve the agency's payment and [~~USPS or~~] SPRS documents ends on the effective date of the termination. The comptroller must receive notification of the revocation [~~Any officer or employee of the agency may notify the comptroller about the termination. Regardless of who provides the notification, the agency must ensure that the comptroller receives it~~] not later than [~~the fifth day after~~] the effective date of the termination. The notification may be provided by any officer or employee of the agency.

(C) When an individual terminates employment with a state agency and has a security profile or a user identification number in USAS or SPRS providing the individual with authority to approve payment, the individual's designation to approve the agency's payment and SPRS documents ends on the effective date of the termination. The comptroller must receive notification of the revocation the effective date of the termination. The notification must be provided by the security coordinator of the state agency that terminates the individual.

(D) [~~(C)~~] The comptroller shall stop recognizing the designation of an individual to approve a state agency's payment and [~~USPS or~~] SPRS documents if the comptroller determines that the individual has terminated employment with the agency. This determination may be based on any information the comptroller deems credible.

(4) Revocations by the comptroller.

(A) This paragraph applies to all state agencies.

(B) The comptroller may unilaterally revoke the designation of any individual to approve payment and [~~USPS or~~] SPRS documents for any reason the comptroller deems appropriate.

(5) USAS security profile changes.

(A) If the designation of an individual to approve payment and [~~USPS or~~] SPRS documents is revoked, then the individual's security profiles in USAS and [~~USPS or~~] SPRS, if any, must be changed so that:

(i) USAS no longer recognizes the individual's user identification number as belonging to an individual who has authority to approve payment documents; and

(ii) [~~USPS or~~] SPRS no longer recognizes the individual's user identification number as belonging to an individual who has authority to approve [~~USPS or~~] SPRS documents.

(B) A security profile change required by subparagraph (A) of this paragraph must take effect not later than the date the revocation takes effect.

(C) The comptroller is responsible for changing the security profiles if the comptroller revoked the designation. Otherwise, the security coordinator of the state agency that revoked the designation is responsible.

(D) If the comptroller determines that a security coordinator has not complied with subparagraph (C) of this paragraph, then the comptroller may unilaterally change the security profiles of the individual whose designation has been revoked.

(6) Unauthorized approvals of payment and [~~USPS or~~] SPRS documents.

(A) This paragraph applies to a payment or [~~USPS or~~] SPRS document only if the comptroller determines that an individual approved the document after the taking effect of the revocation of the individual's designation to approve payment and [~~USPS or~~] SPRS documents.

(B) The comptroller may take any necessary steps to prevent a warrant from being issued or an electronic funds transfer from being initiated until a payment or[~~,~~] SPRS[~~, or USPS~~] document subject to this paragraph is properly approved.

(C) If the comptroller is unable to prevent a warrant from being issued or an electronic funds transfer from being initiated, then the comptroller may take any necessary steps to prevent the warrant from being honored or to reverse the electronic funds transfer. The state agency whose payment or[~~,~~] SPRS[~~, or USPS~~] document resulted in the warrant or electronic funds transfer shall cooperate fully with the comptroller in this regard.

(l) Signature card requirements.

(1) Presiding officers and heads of agency. A signature card submitted by a state agency concerning the approval of payment and [~~USPS or~~] SPRS documents by the presiding officer of a governing body or by a head of agency is valid only if the card:

(A) specifies the legal name, Texas identification number, mail code, and position of the presiding officer or head of agency;

(B) provides the presiding officer's or head of agency's user identification number, if the officer or head of agency has one;

(C) contains the presiding officer's or head of agency's original signature;

(D) specifies the agency's name and identification number;

(E) provides a contact phone number for the agency; and

(F) lists an effective date.

(2) Designated individuals. A signature card submitted by a state agency concerning the designation of an individual to approve payment and [~~USPS or~~] SPRS documents is valid only if the card:

(A) specifies the designated individual's legal name, Texas identification number, mail code, and position;

(B) provides the designated individual's user identification number, if the individual has one;

(C) contains the designated individual's original signature;

(D) specifies the agency's name and identification number;

(E) provides a contact phone number for the agency; and

(F) lists an effective date that is the same as the date listed in the accompanying written notification.

(m) Limitations adopted by state agencies concerning approval and designation authority.

(1) Limitations on approval authority. The comptroller may not enforce a state agency's decision to limit an individual's approval authority to particular types of payment or[,] SPRS[, ~~or USPS~~] documents if the limit is stricter than required by state law and this section. Enforcement of that decision is solely the agency's responsibility.

(2) Limitations on designation authority. The comptroller may not enforce a state agency's decision to limit a presiding officer's, executive director's, or chief deputy's authority to designate individuals to approve payment or[,] SPRS[, ~~or USPS~~] documents if the limit is stricter than required by state law and this section. Enforcement of that decision is solely the agency's responsibility.

(n) Signature card and notification forms adopted by the comptroller.

(1) Adoption of forms. The comptroller may adopt one or more forms to facilitate compliance with the signature card and written notice and notification requirements of this section.

(2) Use of forms. If the comptroller adopts a form under paragraph (1) of this subsection, then a state agency must use the form to comply with the requirements of this section to the extent the comptroller intends the form to be used for that purpose.

(o) How electronic approvals of payment and [~~USPS or~~] SPRS documents are provided.

(1) Release of payment documents into USAS for processing.

(A) A state agency may request USAS to process a batch of the agency's payment documents only by releasing the batch on-line according to this section and the procedures adopted by the comptroller.

(B) A batch that a state agency has released must be released again by the agency if:

(i) a transaction within the batch is altered after its original release; or

(ii) a transaction is added to the batch after its original release.

(C) An individual may approve a payment document only if:

(i) the individual begins an on-line session in USAS by entering the individual's user identification number and password; and

(ii) USAS determines that the user identification number and password belong to an individual who USAS recognizes as authorized to approve the agency's payment documents.

(D) USAS recognizes an individual as authorized to release a state agency's payment documents only if the comptroller has given the individual the necessary security to release those documents.

(E) A state agency that wants an individual to have release capabilities for the agency's payment documents must properly request necessary security for the individual from the comptroller. The comptroller will grant the request only if the comptroller determines that the individual:

(i) has inherent authority to approve payment documents and the requirements of subsection (f)(2) of this section have been satisfied; or

(ii) the individual has been designated to approve the agency's payment documents, the requirements of subsection (j) of this section have been satisfied, and the individual's designation has not been revoked according to subsection (k) of this section.

(2) Legal significance of releasing batches of payment documents into USAS for processing.

(A) The on-line release of a batch of payment documents into USAS for processing constitutes the electronic approval of all those documents.

(B) An individual who releases a batch of payment documents into USAS for processing is responsible for the truth and accuracy of the following statement with respect to each payment document and transaction in the batch: "I approve each purchase, travel, and payroll document in this batch. Employees at my state agency have determined that each document complies with applicable law, including the General Appropriations Act (GAA) and the rules of the comptroller of public accounts. For each purchase or travel document, employees at my state agency have determined that: the goods and services covered by the document comply with the requirements of the contracts under which they were purchased; and that the invoices for the goods and services are correct. For each transaction included in a travel document, employees at my state agency have determined that the information included in the transaction has been approved by the claimant. For each payroll document, employees at my state agency have determined that: the payroll is correct and unpaid; and that any salary supplementation report required by the GAA to be filed with the comptroller of public accounts and the secretary of state has been filed. My state agency has authorized me to make this statement for the agency, and I accept responsibility for it." An individual who does not want to be responsible for this statement about a batch may not release the batch. An individual may not both release a batch and avoid responsibility for the statement.

(C) The chief fiscal officer of a state agency shall ensure that each individual who is authorized or designated to approve the agency's payment documents understands this paragraph. The agency's executive director or head of agency, as applicable, shall ensure that the chief fiscal officer satisfies this requirement. However, the failure of the chief fiscal officer, the executive director, or the head of agency to comply with a requirement of this subparagraph does not relieve any individual from responsibility for the truth and accuracy of the statement in subparagraph (B) of this paragraph.

(D) A state agency may not adopt a policy, procedure, or rule that conflicts with this paragraph.

(3) Release of [~~USPS or~~] SPRS documents into [~~USPS or~~] SPRS for processing.

(A) A state agency may request [~~USPS or~~] SPRS to process a batch of the agency's [~~USPS or~~] SPRS documents only by releasing the batch on-line according to this section and the procedures adopted by the comptroller.

(B) A batch that a state agency has released must be released again by the agency if:

(i) a transaction within the batch is altered after its original release; or

(ii) a transaction is added to the batch after its original release.

(C) An individual may approve a [~~USPS or~~] SPRS document only if:

(i) the individual begins an on-line session in [~~USPS or~~] SPRS by entering the individual's user identification number and password; and

(ii) [~~USPS or~~] SPRS determines that the user identification number and password belong to an individual who [~~USPS or~~] SPRS recognizes as authorized to approve the agency's [~~USPS or~~] SPRS documents.

(D) [~~USPS or~~] SPRS recognizes an individual as authorized to release a state agency's [~~USPS or~~] SPRS documents only if the comptroller has given the individual the necessary security to release those documents.

(E) A state agency that wants an individual to have release capabilities for the agency's [~~USPS or~~] SPRS documents must properly request necessary security for the individual from the comptroller. The comptroller will grant the request only if the comptroller determines that the individual:

(i) has inherent authority to approve [~~USPS or~~] SPRS documents and the requirements of subsection (f)(2) of this section have been satisfied; or

(ii) the individual has been designated to approve the agency's [~~USPS or~~] SPRS documents, the requirements of subsection (j) of this section have been satisfied, and the individual's designation has not been revoked according to subsection (k) of this section.

(4) Legal significance of releasing batches of [~~USPS or~~] SPRS documents into [~~USPS or~~] SPRS for processing.

(A) The on-line release of a batch of USPS or SPRS documents into USPS or SPRS for processing constitutes the electronic approval of all those documents.

(B) An individual who releases a batch of [~~USPS or~~] SPRS documents into [~~USPS or~~] SPRS for processing is responsible for the truth and accuracy of the following statement with respect to each document and transaction in the batch: "I approve each document in this batch. Employees at my state agency have determined that each document complies with applicable law, including the General Appropriations Act (GAA) and the rules of the comptroller of public accounts. For each document that involves the payment of compensation to a state officer or employee, employees at my state agency have determined that: the payroll is correct and unpaid; and that any salary supplementation report required by the GAA to be filed with the comptroller of public accounts and the secretary of state has been filed. For each document that does not involve the payment of compensation to a state officer or employee, employees at my state agency have determined that: the goods and services covered by the document comply with the requirements under which they were purchased; and that the invoices for the goods or services are correct. For each transaction that involves the reimbursement of a meal expense incurred during non-overnight travel, employees at my state agency have determined that the information included in the transaction has been approved by the claimant. My state agency has authorized me to make this statement for the agency, and I accept responsibility for it." An individual who does not want to be responsible for this statement about a batch may not release the batch. An individual may not both release a batch and avoid responsibility for the statement.

(C) The chief fiscal officer of a state agency shall ensure that each individual who is authorized or designated to approve the agency's [~~USPS or~~] SPRS documents understands this paragraph. The agency's executive director or head of agency, as applicable, shall ensure that the chief fiscal officer satisfies this requirement. However, the failure of the chief fiscal officer, the executive director, or the head of agency to comply with a requirement of this subparagraph does not relieve any individual from responsibility for the truth and accuracy of the statement in subparagraph (B) of this paragraph.

(D) A state agency may not adopt a policy, procedure, or rule that conflicts with this paragraph.

(5) Disclosure of user identification numbers and passwords. An individual may not disclose the individual's user identification number or password, or both, to any individual or entity. Therefore, an individual may not authorize another individual to release a batch of payment or[~~,~~] SPRS[~~, or USPS~~] documents by using the first individual's user identification number and password. Penal Code, §33.02 [~~§33.02(b)~~] criminalizes the intentional or knowing disclosure of a password or personal identification number to an individual or entity without the effective consent of the computer owner.

(p) Non-electronic approvals of paper payment documents.

(1) Special definition. In this subsection, "payment document" means only a paper payment document.

(2) General requirements. A state agency may provide non-electronic approval of a payment document only if the comptroller consents to that approval method.

(3) Requirements of other subsections. In addition to this subsection, subsections (a) - (o) of this section govern all aspects of non-electronic approvals of payment documents, with the exceptions specified in those subsections.

(4) Method for providing approvals.

(A) The non-electronic approval of a payment document must be provided through the original signature of an individual who is authorized or designated to approve the document.

(B) An individual's original signature on a payment document is a valid approval of that document only if the signature matches the individual's signature on the appropriate signature card or, if adopted by the comptroller, on the form used in lieu of signature cards.

(5) Reapprovals. If a payment document is altered in any manner after an individual has properly approved the document, then the document must be properly approved again.

(q) Non-electronic approvals of payment documents submitted to USAS electronically and of [~~USPS or~~] SPRS documents.

(1) Special definition. In this subsection, "payment document" means only a payment document that is submitted to USAS electronically.

(2) General requirements. A state agency may provide non-electronic approval of a payment or[,] SPRS[, ~~or USPS~~] document only if the comptroller consents to that approval method.

(3) Requirements of other subsections. In addition to this subsection, subsections (a) - (o) of this section govern all aspects of non-electronic approvals of payment and [~~USPS or~~] SPRS documents, with the exceptions specified in those subsections.

(4) Method for providing approvals.

(A) The non-electronic approval of a payment or[,] SPRS[, ~~or USPS~~] document must be provided through the original signature of an individual who is authorized or designated to approve the document.

(B) An individual's original signature on a payment or[,] SPRS[, ~~or USPS~~] document is a valid approval of that document only if the signature matches the individual's signature on the appropriate signature card or, if adopted by the comptroller, on the form used in lieu of signature cards.

(5) Reapprovals. If a payment or[,] SPRS[, ~~or USPS~~] document is altered in any manner after an individual has properly approved the document, then the document must be properly approved again.

(6) When the release of a payment or[,] SPRS[, ~~or USPS~~] document does not constitute approval of that document.

(A) If the comptroller has consented to the contract, a state agency may contract with an individual not employed by the agency or with another entity to:

(i) release the agency's payment documents into USAS for processing;

(ii) release the agency's [~~USPS or~~] SPRS documents into [~~USPS or~~] SPRS for processing; or

(iii) release the agency's payment documents into USAS for processing and the agency's [~~USPS or~~] SPRS documents into [~~USPS or~~] SPRS for processing.

(B) The release of a payment or[,] SPRS[, ~~or USPS~~] document under subparagraph (A) of this paragraph does not constitute approval of the document. The document may be approved only according to paragraph (4) of this subsection.

(C) The comptroller may consent to a contract described by subparagraph (A) of this paragraph if:

(i) the comptroller is satisfied that the state agency whose payment or[,] SPRS[, ~~or USPS~~] documents are being released has statutory authority to enter into the contract;

(ii) the comptroller is satisfied that the state agency, if any, that will be releasing the payment or[,] SPRS[, ~~or USPS~~] documents has statutory authority to enter into the contract;

(iii) the contract is in writing;

(iv) the comptroller is satisfied that the agency whose payment or[,] SPRS[, ~~or USPS~~] documents are being released has established an internal system for properly authorized or designated individuals to approve those documents before their release according to paragraph (4) of this subsection;

(v) the comptroller is satisfied that approvals under the internal system described in clause (iv) of this subparagraph can be verified easily by the comptroller and the individual or entity that releases the payment or[,] SPRS[, ~~or USPS~~] documents;

(vi) before an individual or entity releases a payment or[,] SPRS[, ~~or USPS~~] document, the contract requires the individual or entity to verify that the approval methods described in paragraph (4) of this subsection have been followed;

(vii) the individual or entity has entered into a contract with the comptroller that obligates the individual or entity to comply with the requirements of this paragraph, if the comptroller determines the contract is necessary;

(viii) the agency whose payment or[,] SPRS[, ~~or USPS~~] documents are being released has agreed in its post-payment contract, if any, with the comptroller that the release of those documents into USAS or[,] SPRS, [~~or USPS,~~] as applicable, does not constitute approval of the document; and

(ix) the comptroller is satisfied that the security provided under the contract is at least equivalent to the security that would exist if the agency released its own payment or[,] SPRS[, ~~or USPS~~] documents.

(D) The burden of demonstrating that a state agency has statutory authority to enter into a contract described in subparagraph (A) of this paragraph is with the agency. The comptroller may require the submission of whatever information and legal arguments the comptroller deems necessary to satisfy the comptroller that the authority exists.

(E) The comptroller must be kept informed about who is authorized to release the payment or[,] SPRS[, ~~or USPS~~] documents of a state agency that has entered into a contract described in subparagraph (A) of this paragraph. The authorized individuals may not appear on the agency's signature cards or, if adopted by the comptroller, the form used in lieu of the cards. The officer or employee of the agency who has the authority to enter into accounting services contracts is responsible for complying with this subparagraph.

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

Filed with the Office of the Secretary of State on August 15, 2025.

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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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SUBCHAPTER L. CLAIMS PROCESSING--REPLACEMENT PAYMENTS

34 TAC §5.140

The Comptroller of Public Accounts proposes amendments to §5.140, concerning replacement payments.

No legislation was enacted within the last four years that provides the statutory authority for the amendments.

The amendments to subsection (a) change "comptroller of public accounts" to "comptroller" in subsection (a)(9)(A) to use the defined term and delete "the Uniform Statewide Payroll/Personnel System" from the definition of "statewide accounting system"

in subsection (a)(10) because this system is no longer used by the comptroller.

The amendments also correct references to Labor Code, Chapter 210, in subsections (e)(1), (e)(2), and (g)(3).

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by improving the clarity and implementation of the sections. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Clarisse Roquemore, Director, Fiscal Management Division, at clarisse.roquemore@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §403.016(f) and §403.054(h), which require the comptroller to adopt rules regarding electronic funds transfer and the issuance of replacement warrants.

The amendments implement Government Code, §403.016 regarding electronic funds transfers and §403.054 regarding replacement warrants.

§5.140. Replacement Payments.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Appropriation year--The year for which legal authorization for the charge was granted by the legislature. Multiple appropriation year activity may occur within a single fiscal year.

(2) Comptroller--The Comptroller of Public Accounts for the State of Texas.

(3) Fiscal year--The accounting period for the state government which begins on September 1 and ends on August 31.

(4) Include--A term of enlargement and not of limitation or exclusive enumeration. The use of the term does not create a presumption that components not expressed are excluded.

(5) May not--A prohibition. The term does not mean "might not" or its equivalents.

(6) Payee--A person to whom a payment is made payable. A payee may include an individual, a corporation, an organization, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership, an association, and any other legal entity.

(7) Payment cancellation voucher--The form prescribed by the comptroller that a state agency completes when requesting cancellation of a warrant by the comptroller.

(8) Replacement payment--A payment issued to replace an original warrant, either by issuing a replacement warrant or initiating an electronic funds transfer.

(9) State agency--

(A) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including the comptroller [~~of public accounts~~] and an institution of higher education as defined by Education Code, §61.003, other than a public junior college;

(B) the legislature or a legislative agency; or

(C) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

(10) Statewide accounting system--Includes the Uniform Statewide Accounting System, [~~the Uniform Statewide Payroll/Personnel System,~~] the Statewide Payroll/Personnel Reporting System and the Centralized Accounting and Payroll/Personnel System.

(11) Warrant--A state payment in the form of paper issued to a payee by or on behalf of a state agency.

(b) Request for issuance. The payee of an original warrant may request issuance of a replacement payment. The request must be directed to the state agency that initiated the original warrant and must be accompanied by any statements or documentation required by the agency.

(c) Issuance by comptroller. The comptroller may issue a replacement payment only if:

(1) the state agency that initiated the original warrant provides to the comptroller proper notification that:

(A) the agency has received a request for issuance of a replacement payment from the payee of the original warrant;

(B) the replacement payment would replace an original warrant previously issued by the agency; and

(C) the agency has determined that:

(i) the original warrant was lost, destroyed, or stolen;

(ii) the payee did not receive the original warrant; or

(iii) the payee's endorsement on the original warrant was forged; and

(2) subsection (f) of this section does not prohibit issuance of the replacement payment.

(d) Issuance by other agency. A state agency other than the comptroller may issue a replacement payment only if:

(1) the comptroller has delegated to the agency the authority to print and deliver warrants under Government Code, §403.060;

(2) the replacement payment would replace an original warrant previously issued by the agency;

(3) the agency has determined that:

(A) the original warrant was lost, destroyed, or stolen;

(B) the payee did not receive the original warrant; or

(C) the payee's endorsement on the original warrant was forged; and

(4) subsection (f) of this section does not prohibit issuance of the replacement payment.

(e) Notification.

(1) For all warrants except financial assistance warrants governed by Human Resources Code, §31.038 and back pay award warrants governed by Labor Code, Chapter 210, Subchapter A [~~B~~], notification to the comptroller under subsection (c)(1) of this section is proper only if the agency:

(A) submits the information directly to the comptroller's Web cancellation system in accordance with the comptroller's requirements, if the agency's documentation is retained in the agency's files for audit by the comptroller; or

(B) complies with the comptroller's requirement to submit a payment cancellation voucher to the comptroller for cancellation of warrants that are not eligible to be canceled on the comptroller's Web cancellation system.

(i) The agency must complete and submit the payment cancellation voucher to the comptroller.

(ii) The agency may substitute the comptroller's payment cancellation voucher with an agency payment cancellation voucher only upon approval by the comptroller.

(2) For financial assistance warrants governed by Human Resources Code, §31.038 and back pay award warrants governed by Labor Code, Chapter 210, Subchapter A [~~B~~], notification to the comptroller under subsection (c)(1) of this section is proper only if the agency completes and submits the appropriate documentation to the comptroller.

(3) After a warrant is canceled, the state agency that requested its cancellation may request issuance of a replacement payment in accordance with the procedures adopted by the comptroller. The request for a replacement payment must be submitted to the appropriate statewide accounting system.

(f) Prohibition on issuance. A replacement payment may not be issued if:

(1) the original warrant has been paid, unless a refund of the payment has been obtained by the state;

(2) the period during which the comptroller may pay the original warrant has expired under Government Code, §404.046, or other applicable law;

(3) the payee of the replacement payment is not the same as the payee of the original warrant; or

(4) state or federal law prohibits the issuance of a payment to the payee of the replacement payment.

(g) Limitations and exceptions.

(1) A replacement warrant must reflect the same appropriation year as the original warrant and may not be paid unless presented to the comptroller or a financial institution before the expiration of two years after the close of the fiscal year in which the original warrant was issued.

(2) Except as provided by paragraph (1) of this subsection, a replacement payment for a federal guaranteed student loan identified by the Texas Higher Education Coordinating Board must be issued within 120 calendar days from its original date of issuance and may not be paid unless presented to the comptroller or a financial institution before its expiration date.

(3) Except as provided by this paragraph, the Texas Workforce Commission shall comply with this section when issuing a replacement payment. The deadline for issuance of the replacement payment is the deadline specified in Labor Code, Chapter 210, Subchapter A [~~B~~].

(4) A replacement payment issued to replace a state employee payroll warrant may not be issued by initiating an electronic funds transfer. Such replacement payment may be issued only in the form of a replacement warrant.

(5) The state agency that issues a replacement payment under subsection (c) or (d) of this section is authorized to determine whether the replacement payment is issued in the form of a replacement warrant or an electronic funds transfer. The state agency must follow the appropriate comptroller procedures for issuing a replacement payment.

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

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SUBCHAPTER O. UNIFORM STATEWIDE ACCOUNTING SYSTEM

34 TAC §5.210

The Comptroller of Public Accounts proposes amendments to §5.210 regarding uniform statewide accounting system.

No legislation was enacted within the last four years that provides the statutory authority for the amendments.

The amendments to subsection (b) alphabetize the definitions for ease of use; update the definition of "Individual Accounting and/or Payroll System" to clarify that this system is not a direct component of the uniform statewide accounting system, but this system must report to it; delete the definition of "USPS" (Uniform Statewide Payroll/Personnel System) and delete the reference to "USPS" from the definition of "SPRS" (Standardized Payroll/Personnel Reporting System) because USPS is no longer used by the comptroller.

The amendments to subsection (c) delete the reference to "USPS" because USPS is no longer used by the comptroller, and change "comptroller" to "the comptroller" in paragraph (2) to correct a typographical error.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rule is in effect, the rule: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not

increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rule would benefit the public by improving the clarity and implementation of the sections. There would be no significant anticipated economic cost to the public. The proposed amended rule would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Clarisse Roquemore, Director, Fiscal Management Division, at Clarisse.roquemore@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §2101.035(a) and §2101.036(a), which authorize the comptroller to adopt procedures and rules for the effective operation of the uniform statewide accounting system and adopt rules related to state agency internal accounting systems.

The amendments implement Government Code, §2101.035 regarding the uniform statewide accounting system, and Government Code, §2101.036 regarding state agency internal accounting systems.

§5.210. Uniform Statewide Accounting System.

(a) Purpose. The purpose of this section is to allow the comptroller to administer, maintain, modify and operate the uniform statewide accounting system, including any required component systems, to serve as the financial system of record for the State of Texas. The uniform statewide accounting system includes each component designated by the comptroller. The comptroller may require state agencies to use any or all components of the uniform statewide accounting system as their internal system or may allow agencies to report required information from existing individual systems that conform to reporting and calculation requirements specified by the comptroller.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

~~[(1) State agency--Has the meaning assigned by Government Code, §403.013(a) but does not include public junior colleges or community colleges.]~~

(1) [~~(2)~~] HRIS--The Human Resource Information System, which is the higher education reporting system and a component of the uniform statewide accounting system. HRIS is the system to which the institutions of higher education must report information in the format and by the timeframes required by the comptroller.

(2) Individual Accounting and/or Payroll System--A system that supplements USAS by offering enhanced functionality to support agency operations, including the collection of additional accounting detail or the support of workflow functionality. This system typically interfaces with USAS.

(3) SPA--The Statewide Property Accounting system, which is the personal property fixed asset component of the uniform statewide accounting system.

(4) SPRS--The Standardized Payroll/Personnel Reporting System, which is a component of the uniform statewide accounting system. SPRS is the system maintained by the comptroller as the reporting data base that state agencies utilize to report required information in the format and by the timeframes required by the comptroller.

(5) State agency--Has the meaning assigned by Government Code, §403.013(a), but does not include public junior colleges or community colleges.

(6) State funds--Funds of the state held by state agencies regardless of whether or not such funds are inside or outside of the State Treasury.

(7) [~~(4)~~] TINS--The Texas Identification Number System, which is a component of the uniform statewide accounting system. TINS is used to track payees paid through USAS and records the payments.

(8) [~~(5)~~] USAS--The Uniform Statewide Accounting System, which is the integrated financial system of record for the State of Texas financial records.

~~[(6) USPS--The Uniform Statewide Payroll/Personnel System, which is the integrated human resources and payroll system developed and maintained by the comptroller as a component of the uniform statewide accounting system. USPS is maintained for the use of state agencies and the calculations in USPS serve as the standardized payroll calculations for all state payrolls.]~~

~~[(7) SPRS--The Standardized Payroll/Personnel Reporting System, which is a component of the uniform statewide accounting system. SPRS is the system maintained by the comptroller as the reporting data base that state agencies, that do not use USPS as their internal payroll and human resources system, utilize to report required information in the format and by the timeframes required by the comptroller.]~~

~~[(8) State funds--Funds of the state held by state agencies regardless of whether or not such funds are inside or outside of the State Treasury.]~~

~~[(9) Individual Accounting and/or Payroll Systems--Systems that are used instead of USAS as a state agency system of record, or are systems that modify the code base of the integrated statewide administrative system which is the state integrated financial system maintained for state agencies that use the integrated statewide administrative system as their internal financial system to interface with the state's systems of record.]~~

(c) The comptroller shall be responsible for the administration, maintenance, and operation of the Uniform Statewide Accounting System that it has previously implemented through HRIS, SPA, SPRS, TINS, and USAS [~~and USPS~~] as follows:

(1) The comptroller shall notify state agencies of the requirements of the USAS components and provide user guides, manuals, and policy statements accessible on the comptroller's website.

(2) The comptroller shall assist and consult with state agencies in the implementation and use of the USAS components in reporting to the comptroller.

(3) The comptroller shall be available for discussions or meetings with state agencies to explain and assist with use and implementation of USAS components as well as to provide training.

(4) The comptroller may require reports from state agencies regarding implementation of USAS components.

(5) The comptroller may require state agencies to stop, delay, or modify implementation of individual accounting and/or payroll systems to ensure that those systems are compatible with USAS.

(6) The comptroller may require state agencies to replace individual accounting and/or payroll systems to ensure that those systems are compatible with USAS.

(7) Any expenditure of state funds by state agencies for the establishment, modification, or maintenance of an individual accounting and/or payroll system must be in compliance with rules, user guides, manuals and policy statements issued by the comptroller, regarding the development, implementation or use of USAS.

(8) State agencies may use centralized computer systems other than USAS but such agencies must comply with the comptroller's rule on enterprise resource planning in §5.300 of this title (referring to Monitoring and Implementation of Enterprise Resource Planning Systems) and must follow interoperability standards contained in the comptroller's user guides, manuals, and policy statements available on the comptroller's website.

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

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CHAPTER 9. PROPERTY TAX ADMINISTRATION

SUBCHAPTER O. TEXAS JOBS, ENERGY, TECHNOLOGY AND INNOVATION PROGRAM

34 TAC §§9.5001, 9.5002, 9.5004, 9.5005, 9.5008, 9.5009

The Comptroller of Public Accounts proposes amendments to §9.5001 concerning applicant eligibility requirements, §9.5002 concerning application requirements, §9.5004 concerning application process, §9.5005 concerning agreement for limitation on taxable value of eligible property, §9.5008 concerning job and wage requirements; penalty for failure to comply with job or wage requirement, and §9.5009 concerning biennial compliance report.

The legislation enacted within the last four years that provides the statutory authority for the amendments are House Bill 5, 88th Legislature, R.S. 2023 and House Bill 1620, 89th Legislature, R.S., 2025.

The amendments to §§9.5001, 9.5002, 9.5004, 9.5005, 9.5008 and 9.5009 incorporate statutory changes from House Bill 1620, 89th Legislature, R.S., 2025, including the renumbering of Sections 403.601-605 as Sections 403.651-655, Government Code, and the revising of the ineligibility criteria in Section 403.606.

The amendments to §9.5004 also clarify that once the comptroller issues a recommendation, an applicant may modify their application before agreement execution only if the comptroller's recommendation is positive.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rules are in effect, the rules: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rules would have no fiscal impact on the state government, units of local government, or individuals. The proposed amended rules would benefit the public by improving the clarity and implementation of the sections. There would be no anticipated economic cost to the public. The proposed amended rules would have no fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Desiree Caufield, Manager, Economic Development & Local Government at Desiree.Caulfield@cpa.texas.gov or at P.O. Box 13528, Austin, Texas 78711-3528. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Government Code, §403.623, which requires the comptroller to adopt rules necessary to implement the Texas Jobs, Energy, Technology and Innovation Act.

The amendments implement Government Code, Chapter 403, Subchapter T, concerning the Texas Jobs, Energy, Technology and Innovation Act.

§9.5001. Applicant Eligibility Requirements.

(a) An applicant that is listed as ineligible to receive a state contract or investment or is otherwise ineligible to contract with a state governmental entity under Government Code, Chapters 808, 809, 2270, 2271, [~~or~~] 2274, 2275 or 2276, is ineligible to apply for an agreement for limitation on taxable value of eligible property under Government Code, Chapter 403.

(b) The comptroller may reject an application based on an applicant's ineligibility under subsection (a) of this section.

(c) The comptroller shall send notice of the rejection described in subsection (b) of this section to the applicant.

(d) An applicant may not submit an administrative appeal to the comptroller for reconsideration of an application that has been rejected under subsection (b) of this section.

§9.5002. Application Requirements.

(a) Each application shall include:

(1) a completed application form;

(2) proof of a $30,000 payment as a nonrefundable application fee, payable to the applicable school district;

(3) a sworn affidavit by an agent authorized to bind an applicant attesting that the applicant is not ineligible under Government Code, §403.606;

(4) a map of the proposed project site;

(5) an economic benefit statement for the proposed project as described in Government Code, §403.608; and

(6) any additional information requested by the comptroller to complete its evaluation of the application.

(b) Applicants must segregate confidential information described by Government Code, §403.621, or information that is confidential as a matter of law from other information in their application, amended application or supplement to an application. A cover sheet marked "Confidential" with the legal justification for confidential treatment must accompany all information that is considered confidential.

(c) If an applicant proposes to place an eligible property in a qualified opportunity zone, the entire project including its boundaries must fall within that qualified opportunity zone in order to be subject to the taxable value prescribed in Government Code, §403.655 [~~§403.605(a)(2)~~].

§9.5004. Application Process.

(a) An applicant must submit an application for a limitation on taxable value of eligible property in the form and manner prescribed by the comptroller. The comptroller may require applications to be submitted electronically.

(b) After the eligibility of the applicant is assessed in §9.5001 of this chapter, the comptroller shall review an application to determine if it is administratively complete. An application is considered administratively complete when it includes all the information requested by the comptroller.

(c) The comptroller shall provide notice of an administratively complete application to the applicant, the governor and the applicable school district. The comptroller may provide notice electronically.

(d) If an application is not administratively complete, the comptroller may require an applicant to submit the necessary information by a deadline.

(e) To assess whether a project proposed in an application is an eligible project, the comptroller must find that:

(1) an applicant satisfies the application requirements;

(2) the proposed project meets the definition of eligible project in §9.5000 of this title and Government Code, §403.652 [~~§403.602(8)~~]; and

(3) The applicant is willing to agree and accept the terms described in Government Code, §403.654 [~~§403.604~~], and the agreement terms.

(f) To assess whether an agreement is a compelling factor and whether the applicant would make the proposed investment in the absence of the agreement under Government Code, §403.609(b)(3), the comptroller may consider:

(1) any public documents and statements relating to the applicant, the proposed project or the proposed eligible property that is subject to the application;

(2) official statements by the applicant, government officials or industry officials concerning the proposed project;

(3) alternative sites and prospects explored including any specific incentive information;

(4) any information concerning the proposed project's impact on the Texas economy;

(5) previous applications for and subsequent granting of economic development incentives;

(6) documents pertaining to the proposed project's financials, real estate transactions, utilities, infrastructure, transportation, regulatory environment, permits, workforce, marketing, existing facilities, nature of market conditions, and raw materials that demonstrate whether the incentive is a compelling factor in a competitive site selection process to locate the proposed project in Texas; and

(7) any other information that may aid the comptroller in its determination.

(g) Upon request, the comptroller may require that an applicant provides additional documents to demonstrate a compelling factor in a competitive site selection process to locate the proposed project in Texas. Failure to provide these documents may result in the comptroller being unable to make a recommendation under Government Code, §403.609.

(h) Within 60 days of an application being deemed complete, the comptroller shall examine and determine whether the application should be recommended or not recommended for approval based on the criteria in Government Code, §403.609(b).

(i) The comptroller shall provide written notice of action under Government Code, §403.609(a), to the applicant, the governor and the applicable school district.

(1) The notice shall indicate the comptroller's recommendation either for approval or non-approval of the application along with a copy of the application, and all documents or information relied upon to make the findings prescribed by Government Code, §403.609(b).

(2) A recommendation for approval shall specify a performance bond amount that is 10% of the estimated gross tax benefit to the applicant.

(j) An applicant may submit an amended or supplemental application to the comptroller at any time after the submission of the original application. If an applicant modifies an application that previously received a positive comptroller recommendation [~~recommended by the comptroller~~] prior to the execution of the agreement, the applicant must submit said modifications to the comptroller to make a recommendation pursuant to Government Code, §403.609, before the agreement can be executed.

§9.5005. Agreement for Limitation on Taxable Value of Eligible Property.

(a) An applicant, the governor and the governing body of the applicable school district must mutually agree to enter into an agreement for limitation on taxable value of eligible property that includes the requisite terms in Government Code, §403.654 [~~§403.604~~] and §403.612.

(b) An applicant must satisfy the criteria required to enter in a contract with the state of Texas.

(c) The agreement must be based on information from an application that was recommended for approval by the comptroller.

(d) The agreement must comply with all applicable rules, regulations and statutes.

§9.5008. Job and Wage Requirements; Penalty for Failing to Comply with Job or Wage Requirement.

(a) Except as otherwise provided in Government Code, §403.654 [~~§403.604(a)~~], the number of required jobs may not be waived.

(b) The wage requirement applies to required jobs and additional jobs, as the terms are defined in §9.5000 of this title and Government Code, §403.652 [~~§403.602~~]. The wage requirement may not be waived.

(c) The comptroller shall conduct a biennial review of the periods covered by two consecutive reports submitted by an agreement

holder to determine whether the agreement holder has created the number of required jobs and has met the wage requirement under Government Code, Chapter 403.

(d) To make the determination, the comptroller may:

(1) review the Biennial Compliance Report submitted by the agreement holder;

(2) request additional information from the agreement holder to substantiate the number of required jobs and the wage requirement and/or inspect the eligible property with a 3-day advance notice to the agreement holder in order to perform the inspection at a mutually agreeable time during regular business hours; or

(3) consider any other information that is available to the comptroller.

(e) The comptroller may issue a determination that a job created by the agreement holder is not a required job if the job as identified by the agreement holder:

(1) does not provide 1,600 hours or more of work for that year;

(2) is not a new job but rather a position that was transferred from a facility of the agreement holder from one area of the state to the project covered by the agreement, unless the agreement holder fills the vacancy caused by the transfer;

(3) is not a new job but rather a position that replaced an existing job of the agreement holder, unless the agreement holder filled the vacancy caused by the replacement;

(4) is not covered by a group health benefit plan for which the agreement holder contributes; or

(5) does not meet the wage requirement.

(f) If the comptroller makes a determination that the agreement holder did not create the required number of jobs or meet the wage requirement, the comptroller shall provide notice to the agreement holder, which shall include an explanation for the adverse determination.

(g) If the comptroller finds that an agreement holder received two consecutive adverse determinations for failing to meet the wage requirement prescribed by the agreement, the comptroller shall impose a penalty on the agreement holder in an amount equal to two times the difference between:

(1) the product of:

(A) the actual average annual wage paid to all persons employed by the agreement holder in connection with the project that is the subject of the agreement as computed under Government Code, §403.612(b)(6); and

(B) the number of required jobs prescribed by the agreement; and

(2) the product of:

(A) the average annual wage prescribed by the agreement; and

(B) the number of required jobs prescribed by the agreement.

(h) If the comptroller finds that an agreement holder received two consecutive adverse determinations for failing to maintain at least the number of required jobs prescribed by the agreement, the comptroller shall impose a penalty on the agreement holder in an amount equal to two times the difference between:

(1) the product of:

(A) the number of required jobs prescribed by the agreement; and

(B) the number of required jobs actually created as stated in the most recent report submitted by the agreement holder under Government Code, §403.616; and

(2) the average annual wage prescribed by the agreement during the most recent four quarters for which data is available, as computed by the Texas Workforce Commission.

(i) A determination by the comptroller under subsection (f) of this section is a deficiency determination under Tax Code, §111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce and is subject to the payment and redetermination requirements of Tax Code, §111.0081 and §111.009. A redetermination under Tax Code, §111.009, of a determination under this section is a contested case as defined by Government Code, §2001.003.

(j) In no event shall a penalty imposed under this section exceed the amount of the ad valorem tax benefit received by the agreement holder under the agreement.

(k) The comptroller shall deposit a penalty collected under this section and any interest on the penalty to the credit of the foundation school fund.

§9.5009. Biennial Compliance Report.

(a) Each agreement holder must submit a biennial compliance report with the supportive documents required by Government Code, §403.616 in the manner and form prescribed by the comptroller. The comptroller may require the report to be submitted electronically.

(b) The report must be submitted by June 1 of every even numbered year from the start to the conclusion of the incentive period.

(c) The report must include the minimum number of required jobs described in Government Code, §403.654 [~~§403.604(b)~~] for every tax year throughout the duration of the incentive period.

(d) The report must include the signature of agreement holder's authorized representative(s) by which the representative confirms and attests to the truth and accuracy of the information submitted in the form to the best knowledge and belief of the agreement holder and its representative(s).

(e) Agreement holders must segregate confidential information described by Government Code, §403.621(b) or information that is confidential as a matter of law from other information within the biennial report. A cover sheet marked "Confidential" with the legal justification for confidential treatment must accompany all information that is considered confidential.

(f) For trainees identified in the report, the agreement holder must also submit documentation confirming its approval to take part in the Texans Work Program as set forth in Labor Code, §308.003, along with proof of the trainee's participation in the program including the beginning and ending dates of the trainee's participation.

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

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CHAPTER 16. COMPTROLLER GRANT PROGRAMS

SUBCHAPTER D. RURAL LAW ENFORCEMENT SALARY ASSISTANCE PROGRAM

34 TAC §§16.300, 16.302, 16.304

The Comptroller of Public Accounts proposes amendments to §16.300, concerning definitions, §16.302, concerning review by comptroller, and §16.304, concerning authorized uses of grant funds; limitations.

The legislation enacted within the last four years that provides the statutory authority for these sections is Senate Bill 22, 88th Legislature, R.S., 2023 and General Appropriations Act of the 89th Legislature.

The amendments to §16.300 modify the current definition of "grant" to clarify sources of funding in accordance with the General Appropriations Act of the 89th Legislature.

The amendments to §16.302 modify subsection (c) to clarify other law may allow for the comptroller to deny an application.

The amendments to §16.304 amend subsections (a), (b), (c), and (g) to remove duplicative statutory references. The amendments in subsection (g) also refer to the appropriate subsections within the rule. The amendments make non-substantive changes to subsections (i)(3), (i)(5) and (j)(3).

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed amended rules are in effect, the rules: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed amended rules would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed amended rules would benefit the public by improving the clarity and implementation of the sections. There would be no significant anticipated economic cost to the public. The proposed amended rules would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Russell Gallahan, Manager, Local Government and Transparency, Comptroller of Public Accounts, P.O. Box 13186, Austin, Texas 78701-3186 or to the email address: SB22.Grants@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

These amendments are proposed under Local Government Code, §§130.911(h), 130.912(g) and 130.913(g), which require the comptroller to adopt rules to administer a grant program to provide financial assistance to qualified sheriff's offices, constable's offices, and prosecutor's offices in rural counties.

The amendments implement Local Government Code, §§130.911, 130.912 and 130.913 and the General Appropriations Act.

§16.300. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Applicant--For an entity that applies for a grant under Local Government Code, §130.911 or §130.912, a qualified county, or, for an entity that applies for a grant under Local Government Code, §130.913, a qualified prosecutor's office.

(2) County sheriff--A person elected or appointed as the county sheriff and who performs the duties of the office after complying with Local Government Code, §85.001.

(3) Deputy sheriff--A person appointed as deputy sheriff pursuant to Local Government Code, §85.003 who performs motor vehicle stops in the routine performance of their duties.

(4) Fiscal year--The twelve consecutive calendar months during which an applicant tracks its finances for budget and accounting purposes.

(5) Grant--A grant awarded under this subchapter that is a rural sheriff's office salary assistance grant under Local Government Code, §130.911 and as provided by the General Appropriation Act, a rural constable's office salary assistance grant under Local Government Code, §130.912, or a rural prosecutor's office salary assistance grant under Local Government Code, §130.913.

(6) Grant agreement--An agreement between the comptroller and a grant recipient that governs the terms of a grant.

(7) Grant recipient--A qualified county or a qualified prosecutor's office that receives a grant under this subchapter.

(8) Investigator--A person employed by and appointed by the prosecutor's office as an investigator under Government Code, §41.102 and §41.109, and who is licensed under Occupations Code, §1701.301.

(9) Jailer--A person employed by the county sheriff as a jailer under Local Government Code, §85.005, who is licensed with a permanent or temporary county jailer license issued under Occupations Code, §1701.301 and §1701.307, or Government Code, §511.00905, and whose duties include the safekeeping of prisoners and the security of a jail operated by the county.

(10) Population--The population shown by the most recent federal decennial census.

(11) Qualified constable--A constable who meets the following standards:

(A) is elected to, and currently holds, an office created on or before January 1, 2023;

(B) performs motor vehicle stops in the routine performance of their duties for the majority of their time on duty; and

(C) meets all eligibility requirements to serve under Local Government Code, §86.0021, and Code of Criminal Procedure, article 2.12(2).

(12) Qualified county--A county with a population of 300,000 or less.

(13) Qualified prosecutor's office--An office of a district attorney, criminal district attorney, or county attorney with criminal prosecution duties whose jurisdiction has a population of 300,000 or less.

(14) Safety equipment--Any tangible equipment used by a sheriff's office that is necessary to protect the health and physical safety of a county sheriff or deputy sheriff or county jailer while performing their duties, and may include radio equipment or in-car camera systems added to previously owned vehicles, ballistic helmets, ballistic plates, ballistic shields, entry tools, body armor, medical gear & masks, outer carriers, pepper spray, plate carriers, personal alarm, riot batons, riot helmets, riot shields, body cameras, and miscellaneous safety gear which consists of door jams, disposable cuffs and knee pads. The term does not include software unless it is purchased in connection with the purchase of tangible safety equipment and is necessary for that safety equipment to be functional.

(15) Victim Assistance Coordinator--The person designated to serve as victim assistance coordinator under Code of Criminal Procedure, article 56A.201, by a district attorney, criminal district attorney, or county attorney who prosecutes criminal cases and who is responsible for the duties listed in Code of Criminal Procedure, article 56A.202.

(16) Vehicle--A law enforcement vehicle used by a sheriff's office for transportation while performing duties of the office such as patrols, responses to calls for service, and transport of persons in custody, and includes equipment affixed to the vehicle for law enforcement purposes.

§16.302. Review by Comptroller.

(a) Upon receipt of an application, the comptroller shall review the application to ensure that it is complete. If the application is incomplete, as determined by the comptroller, the comptroller may contact the applicant and request any required information. Any required information requested by the comptroller must be submitted by the applicant within 14 calendar days of the request.

(b) An application shall be rejected by the comptroller if the application is submitted:

(1) by an applicant that does not meet the definition of a qualified county or qualified prosecutor's office;

(2) before 60 days prior to the first day of the applicant's fiscal year for which the applicant is seeking a grant;

(3) after the 30th day of a fiscal year for which the applicant is seeking a grant; or

(4) on a form other than the electronic form prescribed by the comptroller.

(c) The comptroller may reject an application if the applicant or the application does not comply with this subchapter, or does not comply with Local Government Code, §§130.911, 130.912, [~~or~~] 130.913, or other state law, as applicable.

(d) The comptroller shall make a determination of award not later than 90 days after the date the application is received.

§16.304. Authorized Uses [~~uses~~] of Grant Funds; Limitations.

(a) A rural sheriff's office salary assistance grant awarded under this subchapter [~~and Local Government Code,~~ §130.911,] may only be used:

(1) to provide a minimum annual salary of at least:

(A) $75,000 for the county sheriff;

(B) $45,000 for each deputy sheriff; and

(C) $40,000 for each jailer; and

(2) provided that each county sheriff that meets the definition in §16.300(2) of this title, each deputy sheriff that meets the definition in §16.300(3) of this title, and jailer that meets the definition in §16.300(9) of this title that is employed by the county sheriff, regardless of hiring date, receives the minimum salary described by paragraph (1) of this subsection:

(A) to increase the salary of a person described by paragraph (1) of this subsection;

(B) to hire additional deputies or staff for the sheriff's office; or

(C) to purchase vehicles, firearms, and safety equipment for the sheriff's office.

(b) A rural constable's office salary assistance grant awarded under this subchapter [~~and Local Government Code,~~ §130.912]:

(1) may only be used to provide a minimum annual salary of $45,000 to a qualified constable; and

(2) for each qualified constable whose salary is funded in part by the grant awarded under this subchapter, the county must contribute at least 75% of the money required to meet the minimum annual salary requirement.

(c) A rural prosecutor's office salary assistance grant awarded under this subchapter [~~and Local Government Code,~~ §130.913,] may only be used:

(1) to increase the salary of an assistant attorney, an investigator, or a victim assistance coordinator employed at the prosecutor's office; or

(2) to hire additional staff for the prosecutor's office.

(d) Grant funds may not be used for indirect costs or direct administrative costs of a grant recipient. Unallowable direct administrative costs include software, trainings, licenses and expenses for the business functions of the office. Grant funds may not be used for contract labor, but a grant recipient may hire an employee with a predetermined termination date.

(e) For the purpose of subsection (a)(1) of this section, if a grant recipient does not have sufficient grant funding to fund the minimum annual salaries required by this subsection, the grant recipient may use grant funds to increase the salaries of the persons described in that subsection on a pro-rata basis.

(f) If a person described by subsection (a)(1) or (b)(1) of this section is a part-time or hourly employee, or holds a dual office or otherwise divides work hours between a position described in this section and another position, the minimum annual salary required by this section may be converted to a minimum hourly wage and will apply only to the hours of work performed for a position described in this section.

(1) For an employee with a 40-hour work week, the minimum hourly wage shall be the product of:

(A) the minimum annual salary described in this section; and

(B) a quotient:

(i) the numerator of which is equal to the number of hours the employee normally works performing duties for a position described in this section each week, not to exceed 40; and

(ii) the denominator of which is equal to 40; and

(2) for an employee with a county adopted work period as authorized by the Fair Labor Standards Act, 29 U.S.C.A. § 207(k), the minimum hourly wage shall be the product of:

(A) the minimum annual salary described in this section; and

(B) a quotient:

(i) the numerator of which is equal to the number of hours the employee normally works performing duties for a position described in this section each period, not to exceed the number of hours that are nonovertime as determined under the Fair Labor Standards Act; and

(ii) the denominator of which is equal to the number of hours that are nonovertime as determined under the Fair Labor Standards Act.

(g) For grants awarded under this subchapter: [~~Local Government Code, §130.911 or §130.912,~~]

(1) Grant [~~grant~~] funds described by subsection (a) and (b) of this section may only be used for the state purpose of ensuring professional law enforcement throughout the state; and[~~. For grants awarded under Local Government Code, §130.913,~~]

(2) Grant [~~grant~~] funds described by subsection (c) of this section may only be used for the state purpose of ensuring professional legal representation of the people's [~~peoples~~] interests throughout the state.

(h) A person whose salary increase may be paid with grant funds under subsections (a)(2)(A) or (c)(1) of this section may be paid an increase in hourly wages if they are paid an hourly wage rather than an annual salary.

(i) For salary increases required to bring a salary to the minimum annual salary as described by subsections (a)(1) and (b)(1) of this section, and salary increases described by subsections (a)(2)(A) and (c)(1) of this section:

(1) the cost of providing a salary increase includes:

(A) the amount by which the salary increases;

(B) excluding benefits and taxes paid for overtime pay, the amount by which the legally required nonmonetary benefits and taxes for that employee increases as a result of the salary increase, including:

(i) the increase in the employers share of payroll taxes; and

(ii) if applicable, any increase in the employers share of retirement contributions.

(2) The cost of providing a salary increase does not include:

(A) overtime pay;

(B) compensatory time pay that is paid out;

(C) longevity pay; or

(D) any legally required nonmonetary benefit that is not calculated as a percentage of salary or wages.

(3) The increase in a salary is measured based on the salary provided on the last day of the entity's [~~entitys~~] fiscal year ending prior to the first year the entity received grant funds.

(4) A county may only use grant funds for the legally required nonmonetary benefits and taxes for a salary if the county provides the minimum annual salary required by subsections (a)(1) and (b)(1) of this section, if applicable. A county may not reduce a salary below a minimum salary required by subsection (a)(1) or (b)(1) of this section in order to use grant funds for legally required nonmonetary benefits and taxes for that salary.

(5) For example, in Fiscal Year 2023, a county sheriff's [~~sheriffs~~] minimum annual salary is $50,000 and the county pays $3,825 for the employers share of payroll taxes, pays $2,500 to Texas County and District Retirement System (TCDRS) for an employers matching retirement contribution, and $2,500 for health insurance premiums. In Fiscal Year 2024, because of the grant, the annual salary is $75,000, the employers share of payroll taxes is $5,737.50, the employers matching contribution to TCDRS is $3,750, and health insurance premiums are $2,500. The county may use grant funds to increase the sheriff's [~~sheriffs~~] annual budget by $25,000 + $1,912.50 + $1,250 = $28,162.50. In Fiscal Year 2025, because of the grant, the county may use grant funds to continue to fund the increase to the sheriff's [~~sheriffs~~] annual budget for the annual salary increase by $25,000 + $1,912.50 + $1,250 = $28,162.50.

(j) For additional employees hired under subsections (a)(2)(B) or (c)(2) of this section:

(1) the cost of hiring the additional employees includes:

(A) the salary, which, if applicable, must meet the minimum annual salary required by subsections (a)(1) and (b)(1) of this section; and

(B) the legally required nonmonetary benefits and taxes for that employee, including:

(i) the employers share of payroll taxes;

(ii) if applicable, the employers share of retirement contributions; and

(iii) if applicable, the employers share of health insurance premiums.

(2) The cost of hiring the additional employees does not include:

(A) overtime pay;

(B) compensatory time pay that is paid out; or

(C) longevity pay.

(3) Determination of whether an employee is an additional employee is based on whether the position existed on the last day of the entity's [~~entitys~~] fiscal year ending prior to the first year the entity received grant funds.

(4) For the additional position to be eligible for salary increases funded by the grant, it must be an eligible salary increase under subsection (a)(2)(A) or (c)(1) of this section.

(5) For example, in Fiscal Year 2024, a county hires a new deputy sheriff with the following costs: a salary of $50,000, $3,825 for the employers share of payroll taxes, $2,500 to Texas County and District Retirement System (TCDRS) for an employers matching retirement contribution, and $2,500 for health insurance premiums. Total Fiscal Year 2024 allowable costs are $58,825. In Fiscal Year 2025, the county continues to employ this deputy sheriff and provides a salary increase of $2,500 resulting in an $192 increase in the employers share of payroll taxes, an $192 increase in the employers matching retirement contribution, and no increase in health insurance premiums. This position is eligible for a salary increase under subsection (a)(2)(A) of this section. Total Fiscal Year 2025 allowable costs for this position are $61,709, which include the same amount of $58,825 that it cost to

create the position in FY 2024 plus the cost of $2,884 to increase the salary.

(k) For vehicle leases to be considered a purchase as described in subsection (a)(2)(C) of this section, the grant recipient must:

(1) have the right to purchase the vehicle on performing conditions stated in the agreement;[,] and

(2) have an immediate right to possess the vehicle.

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

Filed with the Office of the Secretary of State on August 15, 2025.

TRD-202502946
Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 475-2220

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34 TAC §16.306

The Comptroller of Public Accounts proposes the repeal of §16.306, concerning provisions applicable to fiscal year 2024.

The legislation enacted within the last four years that provides the statutory authority for these sections is Senate Bill 22, 88th Legislature, R.S., 2023.

The comptroller proposes to repeal §16.306 since it is no longer needed.

Tetyana Melnyk, Director of Revenue Estimating Division, has determined that during the first five years that the proposed rule repeal is in effect, the repeal will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

Ms. Melnyk also has determined that the proposed rule repeal would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed rule repeal would benefit the public by conforming the rule to current statute. There would be no significant anticipated economic benefit or cost to the public. The proposed rule repeal would have no significant fiscal impact on small businesses or rural communities.

You may submit comments on the proposal to Russell Gallahan, Manager, Local Government and Transparency, Comptroller of Public Accounts, P.O. Box 13186, Austin, Texas 78701-3186 or to the email address: SB22.Grants@cpa.texas.gov. The comptroller must receive your comments no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeal is proposed under Local Government Code, §§130.911(h), 130.912(g) and 130.913(g), which require the comptroller to adopt rules to administer a grant program to provide financial assistance to qualified sheriff's offices, constable's offices, and prosecutor's offices in rural counties.

The repeal implements Local Government Code, §§130.911, 130.912 and 130.913.

§16.306. Provisions Applicable to Fiscal Year 2024.

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

Filed with the Office of the Secretary of State on August 15, 2025.

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Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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PART 5. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 101. PRACTICE AND PROCEDURE REGARDING CLAIMS

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes the repeal of current 34 TAC Chapter 101 ("Chapter 101"), relating to practice and procedure regarding claims before TCDRS, and proposes to replace current Chapter 101 with proposed new Chapter 101, also relating to general rules and procedures regarding claims before TCDRS. This proposal is part of the administrative rule review conducted by TCDRS in compliance with Government Code §2001.039.

REPEAL OF CURRENT CHAPTER 101

TCDRS proposes the repeal of current 34 TAC Chapter 101, which includes the following sections: 34 TAC §101.1, Definitions; 34 TAC §101.2 Scope and Application; 34 TAC §101.3, Filing of Documents; 34 TAC §101.4, Computation of Time; 34 TAC §101.5, Applications for Benefits or Asserting Other Claims; 34 TAC §101.6, Time for Filing of Retirement Applications and First Annuity Payments; 34 TAC §101.7, Supporting Documents To Be Submitted; 34 TAC §101.8, Service Retirement Benefits Approved by Director; 34 TAC §101.9, Disability Retirement Applications Referred to Medical Board; 34 TAC §101.10, Disability Retirement Benefits Approved by Director; 34 TAC §101.11, Summary Disposition of Other Approved Applications; 34 TAC §101.12, Contest of Application: Form and Content; 34 TAC §101.13, Notice of Prehearing Disposition; 34 TAC §101.14, Procedure for Obtaining Hearing of Claim Denied in Whole or in Part by Director as Contested Case; 34 TAC §101.15, Hearing of Conflicting and Contested Claims; 34 TAC §101.16, Conduct of Contested Case Hearings; 34 TAC §101.17, Proposals for Decision; 34 TAC §101.18, Filing of Exceptions, Briefs, and Replies; 34 TAC §101.19, Board Consideration and Action; 34 TAC §101.20, Final Decisions and Orders; 34 TAC §101.21, When Decisions Become Final; 34 TAC §101.22, Motions for Rehearing; 34 TAC §101.23, Rendering of Final Decision or Order; 34 TAC §101.24, The Record; 34 TAC §101.25, Proceedings for Review, Suspension, or Revocation of Disability Benefits; and 34 TAC §101.26, Applicability to Pending Proceedings.

PROPOSAL OF NEW CHAPTER 101

As proposed, the new Chapter 101 will address: 34 TAC §101.1, Definitions; 34 TAC §101.2, Scope and Application; 34 TAC §101.3, Filing of Documents; 34 TAC §101.4, Computation of Time; 34 TAC §101.5, Time for Filing of Retirement Applications and First Annuity Payment; 34 TAC §101.6, Supporting Documents to be Submitted; 34 TAC §101.7, Service Retirement Benefits Approved by Director; 34 TAC §101.8, Disability Retirement Applications Referred to Medical Board; 34 TAC §101.9, Disability Retirement Benefits Approved by Director; 34 TAC §101.10, Summary Disposition by the Director; 34 TAC §101.11 Appeal of Administrative Decision; 34 TAC §101.12, Board Consideration and Action; 34 TAC §101.13, Proceedings for Review, Suspension, or Revocation of Disability Benefits, and 34 TAC §101.14, Exclusive Purpose.

BACKGROUND AND PURPOSE

TCDRS proposes to repeal and replace Chapter 101 to update definitions, which will be used consistently throughout all TCDRS administrative rules, and to update procedures for benefit claims and contests. In addition, the repeal and replacement of Chapter 101 is proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

Many provisions of proposed new Chapter 101 rules are substantially similar to the provisions of the existing Chapter 101, which is proposed to be repealed. There are, however, some substantive changes in the proposed new rules, which are described below.

SECTION-BY-SECTION SUMMARY

The proposed repeal of Chapter 101, containing §§101.1 - 101.26, allow for updates to be proposed.

Proposed new Chapter 101, General Rules and Procedure Regarding Claims, contains the rules listed below.

Proposed new §101.1 provides new definitions and changes to existing definitions to improve clarity and to enhance understanding of the rules. The new definitions are replaced throughout Chapter 101 and in subsequent chapters.

Proposed new §101.2 permits the Director to delegate authority to a TCDRS employee to take actions, make decisions or execute documents for which the Director has responsibility under these rules and pursuant to §845.202, Government Code.

Proposed new §101.3 updates filing rules to include processes for electronic filing of documents.

Proposed new §101.4 clarifies how computation of time is determined when a deadline falls on a weekend or holiday.

Proposed new §§101.5 - 101.7 include non-substantive updates to terminology pursuant to the new definitions in § 101.1.

Proposed new §101.8 permits the Director to approve a disability retirement application without referral to the medical board when a member has been approved for a disability benefit by the Social Security Administration.

Proposed new §101.9 includes non-substantive updates to terminology pursuant to the new definitions in §101.1.

Proposed new §101.10 permits the Director to approve an Employer's request for credited service (service by employees before the Employer began participation with TCDRS).

Proposed new §101.11 streamlines the process related to the appeal of administrative determinations and clarifies that Chapter 2001 of Government Code governs contested cases before the State Office of Administrative Hearings.

Proposed new §§101.12 - 101.13 include non-substantive updates to terminology pursuant to the new definitions in §101.1.

Proposed new §101.14 states the exclusive purpose rule, which is moved from Chapter 107 to Chapter 101 to improve the organization of the rules.

New Chapter 101 also reorders and renumbers rules to make them procedurally chronological, and current rules §§101.5, 101.12 - 101.24, and 101.26 (all relating to contesting an administrative decision) are deleted as redundant with the administrative hearings process defined in Chapter 2001 of the Government Code.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed repeal of current Chapter 101 and the proposed replacement of current Chapter 101 with the proposed Chapter 101 rules.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 101 will be a more concise and accurate statement of the administrative rules of TCDRS regarding benefits administration and claims, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed for clarification of TCDRS member benefits administration and claims. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of TCDRS member benefits administration and claims. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation (because new Chapter 101 updates and replaces existing Chapter 101); does not expand,

limit or repeal an existing regulation (because new Chapter 101 updates and replaces existing Chapter 101); does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to TCDRSRuleComments@tcdrs.org. Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register*.

34 TAC §§101.1 - 101.26

STATUTORY AUTHORITY

The repeal of existing Chapter 101 is proposed and implements the authority granted under the following provisions of the TCDRS Act: (i) Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration TCDRS; (ii) Government Code §844.403, which allows the Board to adopt rules necessary or desirable to implement Chapter 844, Subchapter D, which relates to disability retirement benefits; (iii) Government Code §845.116, which allows the Board to adopt rules and procedures relating to the electronic filings and transfers. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed repeal of Chapter 101 implements §§ 844.403, 845.116 and 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§101.1. Definitions.

§101.2. Scope and Application.

§101.3. Filing of Documents.

§101.4. Computation of Time.

§101.5. Applications for Benefits or Asserting Other Claims.

§101.6. Time for Filing of Retirement Applications and First Annuity Payments.

§101.7. Supporting Documents To Be Submitted

§101.8. Service Retirement Benefits Approved by Director.

§101.9. Disability Retirement Applications Referred to Medical Board.

§101.10. Disability Retirement Benefits Approved by Director.

§101.11. Summary Disposition of Other Approved Applications.

§101.12. Contest of Application: Form and Content.

§101.13. Notice of Prehearing Disposition.

§101.14. Procedure for Obtaining Hearing of Claim Denied in Whole or in Part by Director as Contested Case.

§101.15. Hearing of Conflicting and Contested Claims.

§101.16. Conduct of Contested Case Hearings.

§101.17. Proposals for Decision.

§101.18. Filing of Exceptions, Briefs, and Replies.

§101.19. Board Consideration and Action.

§101.20. Final Decisions and Orders.

§101.21. When Decisions Become Final.

§101.22. Motions for Rehearing.

§101.23. Rendering of Final Decision or Order.

§101.24. The Record.

§101.25. Proceedings for Review, Suspension, or Revocation of Disability Benefits.

§101.26. Applicability to Pending Proceedings.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502968
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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34 TAC §§101.1 - 101.14

STATUTORY AUTHORITY

Proposal of the new Chapter 101 is proposed and implements the authority granted under the following provisions of the TCDRS Act: (i) Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration TCDRS; (ii) Government Code §844.403, which allows the Board to adopt rules necessary or desirable to implement Chapter 844, Subchapter D, which relates to disability retirement benefits; (iii) Government Code §845.116, which allows the Board to adopt rules and procedures relating to the electronic filings and transfers. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implement §§ 844.403, 845.116 and 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§101.1. Definitions.

As used in rules adopted by the Board of Trustees of the Texas County and District Retirement System:

(1) Act - The provisions of the Government Code, Title 8, Subtitle F, as amended from time to time;

(2) Board - Board of trustees of TCDRS;

(3) Director - Executive Director of TCDRS;

(4) Document - Applications, beneficiary designations, administrative elections, petitions, claims, complaints, replies, statements, affidavits, subpoenas, or any other pleading under the Act or this title;

(5) Electronic filing and electronic transfer - These terms will have the meanings assigned under Section 845.116(a) of the Act;

(6) Employer - A subdivision, as defined in Section 841.001(17) of the Government Code participating in TCDRS;

(7) Internal Revenue Code - The Internal Revenue Code of 1986, as amended, (and corresponding provisions of any subsequent federal tax laws) and the regulations thereunder.

(8) Medical board - Group of physicians designated by the Board in accordance with Section 845.204 of the Government Code;

(9) SOAH - State Office of Administrative Hearings;

(10) Retirement Plan or Plan - The plan established in accordance with the Act and qualified under Section 401(a) of the Internal Revenue Code;

(11) TCDRS or system - Texas County and District Retirement System;

(12) Proportionate retirement system - A public retirement system other than TCDRS that participates in the Proportionate Retirement Program described by this title and Chapter 803 of the Government Code; and

(13) Signature - Includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature.

§101.2. Scope and Application.

(a) These rules govern the procedures of TCDRS and the administration of such other matters as are set forth under this Part 5 of Title 34, Administrative Code. They shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of TCDRS or the substantive rights of any person.

(b) Subject to the limitation described in subsection (a) of this section, the Director is authorized to suspend, modify or grant an exception to the operation of a rule under this title in individual cases as equity and fairness require to avoid undue hardship, where to do so will not prejudice TCDRS or cause delay or inconvenience in its management or administration, or cause harm or injury to another party, or cause an impermissible suspension, modification, or exception to a mandatory qualification requirement under Section 401(a) of the Internal Revenue Code, and is not contrary to applicable statutes.

(c) The decision to suspend, modify or grant an exception to the operation of a rule in an individual case is within the sole and exclusive discretion of the Director. A determination by the Director to grant or deny relief is final and not appealable by any person. A determination by the Director to grant relief to any person does not create a right or privilege in any other person to an exception, suspension or modification to a rule, or excuse a failure to comply with a rule in all of its particulars.

§101.3. Filing of Documents.

(a) Subject to Subsection (b) of this section, documents must be filed with TCDRS in a format prescribed by the Director and may be required to be filed electronically in accordance with Section 845.116(b) of the Government Code and instructions provided by the Director.

(b) If a proceeding becomes a contested case, documents thereafter shall be filed in accordance with applicable SOAH rules and statute.

(c) A document requiring certification by an Employer that is filed in the format prescribed by the Director is considered to have been certified as to the truth and correctness of the information provided by the Employer. A document that is filed by an individual in the format prescribed by the Director is considered to have been certified as to the truth and correctness of the information provided by the individual.

(d) An electronically filed document and an electronic transfer are received by TCDRS and considered filed when the time receipt is recorded by TCDRS' electronic system. For purposes of meeting a filing deadline, an electronically filed document and an electronic transfer must be received by TCDRS before 11:59 p.m. Central Standard Time of the deadline.

(e) Documents that are not required to be electronically filed under Subsection (a) of this section shall be filed with the Director at TCDRS' physical office in Austin. Such documents shall be deemed filed only when received by TCDRS.

(f) For purposes of clarity, if an individual who completes and executes a beneficiary designation or application for benefits dies before TCDRS receives such documentation, such application or designation will not be accepted or considered valid, regardless of how or when it is filed or received by TCDRS.

§101.4. Computation of Time.

(a) In computing any period of time prescribed or allowed by this title, by order of the Board, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday. Subject to Subsection (b) of this section, if the last day of the computed period is a day other than a business day, the period is extended until the next day business day. For purposes of this subsection, a business day has the meaning defined in Section 552.0031 of the Government Code.

(b) The computation of a time period in an appeal of an administrative decision that has been referred to SOAH is governed by the applicable SOAH rules and statute.

§101.5. Time for Filing of Retirement Applications and First Annuity Payments.

(a) An application for retirement must be signed and dated by the individual seeking the retirement benefit or that individual's authorized representative and must specify an effective retirement date on which the individual will have satisfied all requirements for retirement as such requirements existed on the effective retirement date.

(b) The date specified as the effective date for retirement must be the last day of a calendar month falling within the period that is no more than six months before the date TCDRS receives the retirement application and may not precede the first anniversary of the effective date of participation of the Employer in the Plan.

(c) A member must have terminated from employment on or before the effective retirement date designated on the application. If the member is applying for:

(1) service retirement, the date specified as the effective date of retirement with respect to an Employer may not be a date preceding the termination of the member's employment with the Employer from which the member wishes to retire.

(2) disability retirement, the date specified as the effective date of retirement may not be prior to the later of the date the member

terminated employment with all participating Employers or the date the member became disabled.

(d) If the specified effective retirement date is prior to the date TCDRS receives the retirement application, the retirement annuity shall be calculated under the Plan provisions in effect on the effective retirement date but with the options selected and beneficiaries designated on the application. All unpaid annuity payments attributable to the period from the effective date of retirement through the date the retirement application is processed by TCDRS will be accumulated and paid, without interest, as a single sum.

(e) An annuity approved by TCDRS is payable beginning on the last day of the first month following the effective date of retirement.

§101.6. Supporting Documents to be Submitted.

The Director is authorized to require submission of documents reasonably related to establishment of a claimed right to benefits. These documents include but are not limited to drivers licenses; birth certificates; marriage licenses; divorce decrees; letters of guardianship; letters testamentary or letters of administration; proof of authority to act on behalf of a member including a power of attorney; death certificates; relevant court orders; sworn statements of witnesses and attending physicians; autopsy reports; and sworn statements of the claimant or of others having personal knowledge of relevant facts. Except upon good cause being shown, as determined by the Director, failure to submit all required documents within 30 days of the date specified by the member as his or her effective retirement date will invalidate the application for retirement (service or disability) for all purposes. Thereafter, a new application must be submitted and a new retirement date chosen in accordance with Section 101.5 of this chapter (relating to Time for Filing of Retirement Applications and First Annuity Payments).

§101.7. Service Retirement Benefits Approved by Director.

If the Director finds from the records of TCDRS and from the documents supporting the application that the applicant is entitled to a service retirement benefit, unless a contest has been filed under Section 101.12 of this chapter (relating to Board Consideration and Action), the Director may approve the retirement, calculate the amount of the benefit and place it into effect without further hearing. On the request of the chairman or vice-chairman, any benefit approved by the Director shall be reported to the Board.

§101.8. Disability Retirement Applications Referred to Medical Board.

(a) Except as provided in Subsection (b) of this section, applications for disability retirement shall be referred by the Director to the medical board. The medical board shall investigate all essential statements and certificates by or on behalf of the member in connection with the application for disability retirement and shall pass upon, conduct, or cause to be conducted, all medical examinations which in its opinion are necessary to determine the cause, extent, and permanence of the member's disability. The medical board shall make and file with the Director a written report of its conclusions and recommendations.

(b) The Director may approve a disability retirement application without referral to the medical board under Subsection (a) of this section if a member indicates in his or her application that he or she has applied for and has been approved for disability benefits provided by the Social Security Act and submits with the application the award letter issued by the Social Security Administration.

§101.9. Disability Retirement Benefits Approved by Director.

If the findings and conclusions of the medical board, as stated in its report, are such as in the Director's opinion entitle the member under the terms of the Act to the disability retirement benefit applied for, the Director may approve the retirement, calculate the amount of the benefit, and place it into effect. On the request of the chairman or vice-chairman, any benefit approved by the Director shall be reported to the Board.

§101.10. Summary Disposition by the Director.

(a) Applications for benefits under the Act not specified above, including claims for refund of deposits, may be granted by the Director without formal hearing if not contested by any party and if the Director is satisfied upon the basis of the application and supporting documents that the applicant is entitled to the action requested.

(b) An Employer's request under Section 843.503 of the Government Code that certain employees be granted credited service in TCDRS for service performed as an employee of the immediate predecessor of the Employer may be granted by the Director. The Director may require submission of documents reasonably related to such a request.

§101.11. Appeal of Administrative Decision.

(a) An administrative decision of the Director is final and conclusive unless an appeal is filed in writing with TCDRS in accordance with Section 845.506(a) of the Government Code.

(b) The appeal request must include the following:

(1) the name of the party filing the appeal;

(2) a concise statement of the facts relied upon by the party and a statement of disagreement with the decision;

(3) a request stating the type of relief, action, or order desired by the party;

(4) the signature of the person filing the appeal or of their representative; and

(5) a certificate of service showing that a true copy of the same was served on the party whose claim is being contested, if known.

(c) The Director may refer an appeal of an administrative decision to SOAH for a hearing in accordance with Section 845.506 of the Act.

(d) An appeal under this section is a contested case under Chapter 2001 of the Government Code in accordance with Section 845.506 of the Government Code and will be performed in accordance with Chapter 2001 of the Government Code and the SOAH rules.

(e) If no appeal is timely made of an administrative decision of the Director, such administrative decision will be final and unappealable.

§101.12. Board Consideration and Action.

(a) The final decision in contested cases pursuant to an appeal under Section 101.11 of this chapter (relating to Appeal of Administrative Decision) shall be made by the Board, normally on the basis of a proposal for decision, of exceptions to the proposal, and briefs supporting and opposing the proposal for decision. The Board, in exceptional cases, on its own motion or on request of a party, may allow oral argument, may make its decision on the record, or may order the hearing to be conducted before the Board sitting as a body.

(b) The case will be considered by the Board, normally at its next regular meeting after time has expired for filing of exceptions to the proposal for decision, or any extension of time granted for filing such exceptions, or briefs in support of or against exceptions.

(c) A decision of the Board is final in the absence of a timely motion for rehearing and is final and appealable on the date of rendition of an order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

§101.13. Proceedings for Review, Suspension, or Revocation of Disability Benefits.

(a) The Director, either on the Director's own motion, on recommendation of the medical board, or upon sufficient written complaint, may order any person (the "retiree") who is receiving a disability retirement benefit under the Act and who is less than 60 years of age:

(1) to undergo a medical examination by one or more physicians designated by the Director, at such time and place as the Director by letter may order; or

(2) to furnish answers, in writing under oath, to such questions concerning the person's present and previous employment as may be propounded by the Director in writing.

(b) If a disability retiree fails or refuses to submit to a medical examination as ordered by the Director, the Director shall suspend the retiree's annuity payments until the retiree submits to an examination. The Director at the time of suspension shall notify the retiree of this action. If the retiree thereafter fails to make arrangements with the Director, or the Director's designee, for a time for such a medical examination, or fails to submit to such an examination, for a period of one year from the date of initial failure to submit to such a medical examination, the Director shall order the annuity discontinued, and shall give notice of such actions to the retiree by written letter of notification.

(c) If the retiree submits to a medical examination, the report of the examining physician shall be submitted to the medical board; if the medical board certifies that the retiree is no longer mentally or physically incapacitated, or is able to engage in a gainful occupation, the Director may order the disability annuity discontinued, and the Director shall give written notice of such action to the retiree.

(d) In the event the Director finds that a disability retiree is engaged in a gainful occupation, the Director shall order the disability annuity discontinued, and in that event the Director shall give written notice to the retiree of the Director's actions.

(e) The Director may require a person who is receiving a disability retirement annuity under the Act and who is less than 60 years of age to file an annual report on such form as the Director prescribes concerning receipt by the retiree of income, along with copies of such federal tax forms as the Director may designate. The Director shall give notice of the requirements to the person affected, and shall fix a date within which the information is to be furnished.

(f) In the event that a person subject to such an order fails to furnish the required information within the period specified by the Director, the Director shall suspend the annuity until such time as the required information is furnished, and shall notify the person of the Director actions.

(g) If the person affected by the Director's action in discontinuing a disability retirement annuity desires to contest the same, the person may file an appeal pursuant to Section 101.11 of this chapter (relating to Appeal of Administrative Decision). If no appeal is timely filed, the action of the Director in discontinuing the disability retirement annuity shall be final and unappealable.

§101.14. Exclusive Purpose.

The Board shall hold the assets of the system in trust for the exclusive purpose of providing benefits to participants and paying reasonable expenses of administration. It shall be impossible at any time prior to the satisfaction of all liabilities to members and beneficiaries covered by the trust, by operation of the system, by termination, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the trust, or any funds contributed thereto, to inure to the benefit of any employer or otherwise be used for or diverted to purposes other than providing benefits to members and beneficiaries and defraying reasonable expenses of administering the system.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502969
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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CHAPTER 103. CALCULATIONS OR TYPES OF BENEFITS

34 TAC §§103.1 - 103.11

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes amendments to Chapter 103 concerning Calculations or Types of Benefits. This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

BACKGROUND AND PURPOSE

As a result of the review, TCDRS proposes amendments to §§103.1 - 103.11. The amendments are mostly non-substantive and include changes to terminology consistent with changes simultaneously proposed to §101.1 concerning definitions, and updates to reflect federal law and current processes. The amendments are discussed below.

SECTION-BY-SECTION SUMMARY

Proposed amendments to §§103.1 - 103.3, 103.8, and 103.11 are non-substantive changes to clarify language and update terminology consistent with the definitions proposed in §101.1.

Proposed amendments to §103.4 include non-substantive changes to terminology consistent with changes simultaneously proposed to §101.1 and repeals unnecessary and outdated language concerning the process to submit prior service data to TCDRS.

Proposed amendments to §103.5 reflect federal changes to the required minimum distribution date. In addition, language is updated to reflect current procedures, including when a required minimum distribution is required to be made when a member is actively working for a TCDRS employer or for an employer that participates in the proportionate retirement program.

Proposed amendments to §103.6 include non-substantive changes to terminology consistent with changes simultaneously proposed to §101.1, and repeals outdated language in subsection (b) that imposes unnecessary time deadlines for receipt of additional contributions.

Proposed amendments to §103.7 include non-substantive changes to terminology consistent with changes simultaneously proposed to §101.1, and repeals subsection (b) that includes outdated language concerning a provision of law that was repealed and subsection (c) which duplicates the language of Section 844.007 of the Government Code.

Proposed amendments to §103.9 include non-substantive changes to terminology consistent with changes simultaneously proposed to §101.1 and repeals unnecessary definitions and language that duplicates Section 844.009 of the Government Code.

Proposed amendments to §103.10 update definitions consistent with the definitions proposed in §101.1 and strikes the restriction on disclaiming a benefit by a beneficiary. This restriction is not required under the TCDRS Act and creates unintended consequences.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed amendments to Chapter 103.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 103 will be a more concise and accurate statement of the administrative rules of TCDRS regarding how benefits are calculated and the types of benefits available under the TCDRS plan, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed for clarification of how TCDRS benefits are calculated and types of benefits available under the TCDRS plan, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of how TCDRS benefits are calculated and types of benefits available under the TCDRS plan, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The amendment of existing Chapter 103 is proposed and implements the authority granted under Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed because of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implements § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§103.1. Actuarial Tables.

(a) Service retirement benefits and disability retirement benefits for which the first benefit payment is payable before January 1, 2018, shall be calculated under the following rules:

(1) The annuity purchase rate is calculated on the basis of the UP-1984 table with an age setback of five years for retirees and an age setback of 10 years for beneficiaries, with a 30% reserve refund assumption for the standard benefit.

(2) Annuity purchase rates are based on the respective retiree's and beneficiary's attained ages in years.

(b) For benefits payable on or after January 1, 2018, service retirement benefits and disability retirement benefits shall be calculated under the following rules:

(1) The annuity purchase rate for the portion of the benefit that is associated with service credit and any prior service credit that accrued before January 1, 2018, and all future interest earned and employer matching attributable to this portion shall be calculated based on the assumptions described in Subsection [~~subsection~~] (a)(1) of this section.

(2) The annuity purchase rate for the portion of the benefit that is associated with service credit that accrues on or after January 1, 2018 and is not included in amounts described in (b)(1) above shall be

calculated on a generational mortality basis using the RP-2000 Combined Mortality Table, with a one-year set forward for males and no set forward for female, projected to 2014 using Scale AA and for projections after 2014 using 110% of MP-2014 Ultimate Projection Scale, with a 32.79% reserve refund assumption for the standard benefit. Mortality assumptions for these calculations are blended 50% male and 50% female for retirees, and blended 30% male and 70% female for beneficiaries.

(3) The annuity purchase rates are based on the respective retiree's and beneficiary's attained age in years and months regardless of when the service credit was accrued.

(4) For purposes of this rule, service credit means the monetary credits allowed a member for service for a participating employer as defined in Section 841.001(16) of the [~~Texas~~] Government Code.

§103.2. Additional Optional Retirement Annuities.

(a) A member entitled to retirement may elect to receive, in lieu of a standard retirement benefit, one of the following optional annuities, each of which is a reduced monthly annuity that is the actuarial equivalent of the standard retirement benefit, payable during the lifetime of the retiree, but with the provision that:

(1) after the retiree's death, one hundred percent of the reduced annuity is payable throughout the life of an individual designated by the retiree;

(2) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of an individual designated by the retiree;

(3) after the retiree's death, one-half of the reduced annuity is payable throughout the life of an individual designated by the retiree;

(4) after the retiree's death, one hundred percent of the reduced annuity is payable throughout the life of an individual designated by the retiree, except that if the designated individual predeceases the retiree, the annuity payable throughout the remaining life of the retiree is the annuity that would be payable if the retiree had originally chosen a standard retirement annuity;

(5) if the retiree dies before 120 reduced monthly annuity payments have been made, the remainder of the 120 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse, or if no surviving spouse exists, to the retiree's estate; or

(6) if the retiree dies before 180 reduced monthly annuity payments have been made, the remainder of the 180 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse, or if no surviving spouse exists, to the retiree's estate.

(b) If payments under a standard or optional retirement annuity cease before the sum of all such payments equals or exceeds the amount of accumulated contributions in the individual account in the employees saving fund at the time of retirement of the member on whose service the annuity was based, a lump-sum benefit equal to the amount by which the accumulated contributions exceed the sum of all such payments made under the annuity is payable in the manner described in Section 844.402 of the Government Code [~~§844.402~~].

§103.3. Beneficiary Designations and Payment Elections Requiring Spousal Consent.

(a) A member eligible for retirement must certify to the current marital status of the member on any withdrawal or retirement application filed with TCDRS [~~the system~~].

(1) A member eligible for retirement who is married may not select a form of payment of a retirement benefit other than as a qualified joint-and-survivor annuity unless the member's spouse consents to the selection.

(2) A member eligible for retirement who is married may not withdraw from membership and receive a refund unless the member's spouse consents to the refund.

(3) A member who is unmarried may designate any beneficiary and select any form of payment of a retirement benefit permitted under the Act.

(b) The consent required by Subsection [~~subsection~~] (a) of this section is not required if it is established to the satisfaction of TCDRS [~~the system~~] that:

(1) there is no spouse;

(2) the spouse cannot be located;

(3) the spouse has been judicially declared incompetent in which case the consent may be given by the guardian or other ad litem;

(4) a duly licensed physician has determined that the spouse is not mentally capable of managing his or her own affairs and the Director [~~director~~] is satisfied that a guardianship of the estate is not necessary;

(5) the spouse and the member will have been married for less than one year as of the date the member files a valid application for a refund of the member's accumulated deposits, or as of the effective retirement date designated by the member on the member's valid application for retirement; or

(6) no service performed by the member as an employee of a participating Employer [~~subdivision~~] and credited in TCDRS [~~the system~~] was performed during the marriage of the member and the spouse.

(c) For the purposes of this section, the term "qualified joint-and-survivor [~~joint-and survivor~~] annuity" means a retirement annuity for the life of the member with a survivor annuity for the life of the member's spouse which is not less than 50% of the amount of the annuity which is payable during the joint lives of the member and spouse.

[~~(d) An unrevoked beneficiary designation on file with the system as of December 31, 1999, or filed thereafter remains valid until revoked by the member, or, if the member's spouse is a designated beneficiary, until the member and the spouse become divorced.~~]

(d) [~~(e)~~] TCDRS [~~The system~~] and employees of TCDRS [~~the system~~] may rely upon the certification of the member filed under this section, and are not liable to any person for making payments of any benefits in accordance with the certification even though the certification is later shown to have been untrue on the date of execution.

§103.4. Certification of Prior Service and Average Prior Service Compensation.

(a) Pursuant to Sections [~~§§~~]843.101- 843.104 of the [~~Texas~~] Government Code, an Employer [~~a subdivision~~] must certify to TCDRS [~~the system~~] the service performed by employees of the Employer [~~subdivision~~] before the Employer's [~~subdivision's~~] participation in TCDRS [~~the retirement system~~] became effective and must also certify the average prior service compensation of those members.

(b) The Employer [~~subdivision~~] must certify each member's prior service by calculating one month of credited service for each calendar month during which the member performed at least one day of service for the Employer [~~subdivision~~] other than as a temporary employee, prior to the month that includes the Employer's [~~subdivision's~~] effective participation date. The certification must be submitted in accordance with the instructions provided by TCDRS.

[(c) The subdivision must certify each member's average prior service compensation by multiplying the member's most recent annual rate of compensation as determined in subsection (d) of this section by .97, and dividing this product by twelve.]

[(d) The most recent annual rate of compensation is determined based on the definition prescribed in §844.503 of the Texas Government Code concerning computation of current annual compensation for purposes of group term life insurance. The subdivision shall compute the most recent annual rate of compensation for a member by converting to an annual basis the regular rate of pay of the member for the most recent regular hour worked and proportionally reducing that annual basis figure if the member is not employed in a full time position. The most recent annual rate of compensation of a member who is exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act (29 U.S.C. Section 201 et seq.) and who is paid on a salary basis is computed by converting to an annual basis the regular salary paid to the member for the most recent pay period of active employment.]

[(e) The system shall provide the subdivision a worksheet for the subdivision to enter the data concerning the months of prior service worked as defined in subsection (b), to enter the data concerning the most recent rate of annual compensation as defined in subsection (d), and to calculate the average prior service compensation as described in subsection (c). The subdivision shall be responsible for entering the data, making the calculations, and then certifying the results to the system.]

[(f) Upon receipt of the prior service certification and the average prior service compensation certification, the system will review the data, validate the calculations, and make any necessary corrections in the event of a discrepancy between the subdivision's certifications and the system's validation. If the calculation of average prior service compensation as mandated by this section is infeasible for any reason, the system may approve an alternate method to determine average prior service compensation as long as the calculation is reasonable and consistently applied.]

(c) [(g)] An Employer [a subdivision] must certify the prior service and average prior service compensation of all eligible members no later than 90 [30] days after the Employer's [subdivision's] effective date of participation. In the case of a member eligible for prior service credit under Section [§]843.102(a)(2) of the [Texas] Government Code, the Employer [subdivision] must make the certification no later than 90 [30] days after the six month period of re-employment. Calculations of prior service credit are governed by the law in effect at the time of the calculation. TCDRS [The system] may extend the time periods set forth in this subsection [(g)].

(d) [(h)] If, under Section [§]843.201 of the [Texas] Government Code, an Employer [a subdivision] has acquired a public facility or assumed a governmental function, the date of acquisition or assumption shall be the effective date of participation for purposes of calculating the prior service and average prior service compensation of those members eligible under that section.

§103.5. Required Distribution [Benefit Distribution Requirements].

(a) Required Distribution: In accordance with Section 401(a)(9) of the Internal Revenue Code, a member must (1) withdraw all accumulated contributions credited to that member's individual account pursuant to Section 842.108 of the Government Code or (2) retire and begin receiving a benefit from TCDRS on or before the member's required distribution date.

(1) Required distribution date means April 1 of the calendar year following the later of the calendar year in which the member attains the required distribution age, or the calendar year in which the member terminates employment with all Covered Employers. Required distribution age is the applicable age as prescribed by federal law under Section 401(a)(9)(C) of the Internal Revenue Code, and as amended from time to time.

(2) Covered Employer for purposes of this Subsection includes all TCDRS participating Employers and all employers that participate with the public retirement systems included in the proportionate retirement program under Chapter 803 of the Government Code.

[(a) The following words and terms, when used in this section shall have the following meanings unless the context clearly indicates otherwise.]

[(1) Proportionate retirement system--A public retirement system other than the Texas County and District Retirement System (TCDRS) that participates in the Proportionate Retirement Program.]

[(2) Required distribution date--March 31 of the year following the later of the year in which the member separates from service or the year in which the member attains age 70 and one-half.]

[(3) Separates from service--The termination of employment with a subdivision participating in the TCDRS.]

(b) General Rules:

[(1) A member who has separated from service with a participating subdivision may receive a refund of the accumulated contributions in the member's individual account with respect to that subdivision at any time after separation from service and before retirement from that subdivision.

[(2) A member must receive a refund of the accumulated contributions in the member's individual accounts or retire from the TCDRS on or before the member's required distribution date.]

(1) [(3)] The remaining interest of a deceased retiree's benefit must continue to be distributed as rapidly as the method of distribution being used before the retiree's death.

(2) [(4)] The entire interest that becomes payable because of the death of a member who has a designated beneficiary as defined in regulations to Section [§]401(a)(9) of the Internal Revenue Code must be distributed over the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary. Distributions shall begin no later than the applicable date specified in Section 401(a)(9) of the Internal Revenue Code. [A distribution under this provision after December 31, 1995, must:]

[(A) begin not later than the last day of the calendar year following the calendar year in which the member died, if payable to a person other than the decedent's spouse; or]

[(B) begin not later than the last day of the calendar year following the year in which the member died or the last day of the calendar year in which the decedent would have attained the age of 70 and one-half, if payable to the surviving spouse, unless the surviving spouse dies before payments begin, in which case the beginning of payments may not be deferred beyond the last day of the calendar year following the calendar year in which the surviving spouse dies.]

(3) [(5)] The entire interest that becomes payable because of the death of a member who does not have a designated beneficiary must be distributed within five years of the death of the member.

(4) [(6)] For a distribution made by TCDRS [the retirement system] to which Section [§]401(a)(9) of the Internal Revenue Code applies, TCDRS [the system] shall apply the minimum distribution requirements of Section [§]401(a)(9) of the Internal Revenue Code [of

1986] in a manner that complies with a reasonable good faith interpretation of Section [§]401(a)(9) of the Internal Revenue Code.

[(c) Application:]

[(1) A member who is eligible to retire from the TCDRS, with or without combining the member's credited service with a proportionate retirement system, must receive a refund of the accumulated contributions in the member's individual account or retire on or before the member's required distribution date without regard to whether that member is actively participating in a proportionate retirement system.

[(2) A member who is not actively participating in the TCDRS or a proportionate retirement system, and who is not eligible to retire from the TCDRS on the member's required distribution date must receive a refund of the accumulated contributions in the member's individual account on the member's required distribution date.]

§103.6. Recalculation of Retirement Annuities to Include Post-Retirement Deposits.

(a) If a contribution that would otherwise be credited to the member's individual account in TCDRS [the system] is deposited after the member's effective retirement date, the retirement annuity shall be recalculated in accordance with this section.

[(b) The following deposits shall be treated as additional accumulated contributions for purposes of recalculating the retirement annuity:]

[(1) employee contributions attributable to compensation for services performed while a member of the system but deposited within 60 days after the effective retirement date of the member;]

[(2) employee contributions attributable to compensation for services performed while a member of the system but deposited within 60 days after the death of a deceased member; and,]

[(3) employee contributions deposited as a result of a correction of a reporting error made in accordance with the Government Code, §842.112.]

(b) [(c)] A retirement annuity subject to this section will be recalculated as of the effective retirement date by taking into account the additional accumulated contributions and the related increases in current service credit and matching credit. The recalculated retirement annuity will be based on the age of the retiree (and the age of the beneficiary in the case of a joint and survivor option) as of the effective retirement date.

(c) [(d)] The recalculated retirement annuity is payable only prospectively beginning with the month following the month in which TCDRS [the retirement system] receives the deposit.

§103.7. Determination of Reestablished Credit.

[(a) Except as provided in subsection (b) of this section,] For [for] purposes of determining the current service credit and multiple matching credit of the member under Section 843.003 [Texas Government Code, §843.403] of the Government Code, the amount deposited by the member (excluding any [the] withdrawal charge) [and the amounts described in subsection (b) of this section) after December 31, 1998,] to reestablish credit in TCDRS [the retirement system] shall be considered to be accumulated contributions made by the member to TCDRS [the retirement system] during the calendar year of deposit. The percentage to be used for the determination of the multiple matching credit of the member with respect to such deposit is that percentage adopted by the governing board of the authorizing Employer [subdivision] and in effect during the month in which the deposit is made. [The multiple matching credit percentage may be increased by the governing board on the terms provided by the Government Code, Chapter 844, Subchapter H.]

[(b) The portion of the member's deposit that is a repayment of the amount transferred from a local pension system to the member's individual account in this retirement system pursuant to a merger under Texas Government Code, §842.006 and the accumulated interest attributable to such transferred amount shall not be considered when determining the current service credit and multiple matching credit of the member under subsection (a) of this section unless the merger agreement provides otherwise.]

[(c) For purposes of determining the interest to be credited to the member's individual account, a deposit made under this section that is received by the system on or before December 15, will be included in the member's account as accumulated contributions on the following January 1. A deposit received after December 15 will not be included as accumulated contributions in the determination of the interest to be credited to the member's individual account until January 1 of the next following year.]

§103.8. Limit on Payments During the Limitation Year.

(a) The limitation year used by TCDRS [the retirement system] for determining the maximum annual benefit which may be paid under Section [§]415(b) of the Internal Revenue Code [of 1986] is the calendar year. Notwithstanding anything to the contrary, TCDRS [the retirement system] will make no payments of a retirement annuity with respect to a retiree in excess of the annual limit as determined in accordance with Section [§]415(b) of the Internal Revenue Code and the regulations thereunder.

(b) If the benefit recipient is not a participant in the TCDRS [Texas County and District Retirement System] Qualified Replacement Benefit Arrangement (34 TAC §§113.1, et seq), the maximum monthly amount of the retirement annuity payable with respect to the retiree during the limitation year shall be the lesser of:

(1) the amount determined under the provisions of Chapter 844 of the [,] Government Code, without regard to the limitations of Section [§]844.008; or

(2) the amount determined by dividing the annual limit for the limitation year determined in accordance with Section [§]415(b) of the Internal Revenue Code, by the number of monthly payments scheduled to be paid with respect to the retiree during the limitation year.

(c) If the benefit recipient is a participant in the TCDRS [Texas County and District Retirement System] Qualified Replacement Benefit Arrangement, the maximum monthly amount of the retirement annuity payable with respect to the retiree shall be the amount determined under the provisions of Chapter 844 of the [,] Government Code, without regard to the limitations of Section [§]844.008. TCDRS [The system] shall cease making monthly payments of the retirement annuity payable with respect to the retiree at that time during the limitation year that the total of payments made with respect to such limitation year equals the maximum annual benefit payable in accordance with Section [IRC §]415(b) of the Internal Revenue Code.

(d) In no event shall the total amount paid during the limitation year be less than the lesser of that amount payable with respect to the retiree as determined under the provisions of Chapter 844 of the[,] Government Code without regard to Section [§]844.008; or the annual limit for the limitation year determined in accordance with Section [IRC §]415(b) of the Internal Revenue Code.

(e) TCDRS [The system] will make retroactive or prospective adjustments to any benefit payment as appropriate to comply with this section.

§103.9. Partial Lump-Sum Distribution on Service Retirement.

(a) [The following words and terms, when used in this section shall have the following meanings unless the context clearly indicates otherwise.]

[(1) Act--Subtitle F, Title 8, Government Code as amended.]

[(2)] An Employer [Subdivision--A subdivision] participating in TCDRS may authorize [the retirement system that is subject to the provisions of §844.009 of the Act, authorizing] a member to elect to receive a portion of the member's retirement benefit in the form of a single payment as authorized in Section 844.009 of the Government Code.

[(3) Basic annuity--An annuity payable from the Current Service Annuity Reserve Fund and actuarially determined from the sum of the member's individual account balance and current service credit, as provided under the Act. A retired member receives a separate basic annuity for credited service with each subdivision.]

[(4) Eligible rollover distribution--The portion of the partial lump sum distribution that is eligible to be rolled over to a qualified plan in accordance with the Internal Revenue Code.]

[(5) Individual account--The account maintained by the retirement system in the name of a member reflecting monetary credit and which consists of the contributions deducted from the compensation the member received from the subdivision, the deposits the member made to the account, and interest credited to the account, as provided under the Act. A member has a separate individual account with respect to each subdivision with which the member has credited service.]

[(6) Member--A member of the retirement system who is eligible to apply for and receive a service retirement annuity based on service credited with a subdivision subject to §844.009 of the Act.]

[(7) Retirement account--The reserves on which the member's retirement benefit is determined and which consists of the sum of the member's individual account balance, current service credit, prior service credit, and multiple matching credit, as provided in the Act. A retired member has a separate retirement account with respect to each subdivision with which the member has credited service.]

[(8) Partial Lump Sum Distribution--The portion of the member's retirement benefit elected by the member to be paid to the member or to the alternate payee in the form of a single payment at the time of service retirement of the member. A partial lump sum distribution may not exceed 100 percent of the balances of the member's individual accounts with all subdivisions from which the member will retire.]

[(b) To be eligible to receive a partial lump sum distribution on service retirement, a member must file:]

[(1) an application for service retirement in accordance with the provisions of the Act; and]

[(2) an application for a partial lump sum distribution on or after the date the member files an application for service retirement and before the date the first annuity payment becomes due.]

(b) [(c)] An application for a partial lump sum distribution is a document subject to the certification and spousal consent requirements of Section [§]103.3 [of this title] (relating to Beneficiary Designations and Payment Elections Requiring Spousal Consent).

(c) [(d)] A member may revoke an application for a partial lump sum distribution or reduce the amount of the partial lump sum distribution at any time before the date the first annuity payment becomes due by filing written notice of the revocation or reduction with TCDRS [the system]. The amount of a partial lump sum distribution may not be increased except by the timely filing of a new application.

(d) [(e)] The portion of the partial lump sum distribution that is subject to taxation is a non-periodic distribution for income tax withholding purposes. A member or alternate payee receiving a partial lump sum distribution may elect to have the portion of the partial lump sum distribution that is an eligible rollover distribution transferred directly to a qualified plan, in accordance with the Internal Revenue Code.

[(f) A member, or an alternate payee, receiving a partial lump sum distribution under this section may make, change, modify or revoke a rollover election, provided all checks issued by the system relating to the partial lump sum distribution paid to the member, or to the alternate payee, are returned and received by the system within 30 days of the date on which the retirement system mailed the check or checks.]

[(g) The reserves available to provide the member's basic annuity shall be reduced by the amount of the partial lump sum distribution]

[(h) The amount of the partial lump sum distribution attributable to a retirement account is considered to be an annuity payment for purposes of determining whether the amount in the member's individual account at retirement exceeds the total amount of annuity payments made from the retirement account.]

[(i) No portion of the benefit awarded to an alternate payee under a qualified domestic relations order may be distributed in the form of a partial lump sum distribution under this section, except that a member and the alternate payee may agree in writing that instead of all or a portion of the benefits awarded to the alternate payee under the qualified domestic relations order the alternate payee should receive all or a portion of the partial lump sum distribution elected by the member under this section.]

[(j) The direct payment by the system to an alternate payee of a partial lump sum distribution elected by the member under this section and in accordance with the written agreement between the member and the alternate payee is full payment and in complete satisfaction of the portion of the alternate payee's marital property rights and interest in the member's benefit as set forth in the written agreement. The direct payment to the alternate payee of a partial lump sum distribution under this section is a non-periodic payment made directly to a former spouse for purposes of taxation, withholding requirements and rollover eligibility under the Internal Revenue Code.]

§103.10. Survivor Annuity.

(a) The beneficiary of a deceased member who had accumulated at least four years of credited service in TCDRS [the system] is eligible to apply for and receive a survivor annuity as described in this section.

(b) The annuity payable under this section to an individual beneficiary shall be the actuarial equivalent, as defined in Section [§]841.001(1) of the Government Code [Act], of the allocated shares of the member's individual account balance and total service credit standing to the credit of the member computed as of the last day of the month preceding the member's death.

(c) An individual designated as beneficiary by the member, or an individual designated as beneficiary under the Act, may elect an annuity to be paid in the form of a life annuity for the beneficiary's life but actuarially reduced to provide a guarantee that the total of all payments will equal or exceed:

(1) the beneficiary's allocated share of the decedent's individual account balance; or

(2) the equivalent of 120 monthly payments; or

(3) the equivalent of 180 monthly payments.

(d) In lieu of an annuity, the beneficiary may elect a refund of the beneficiary's allocated share of the deceased member's individual account, unless the member elected to remove the withdrawal option.

(e) The annuity shall be calculated using the beneficiary's age on the last day of the month preceding the member's death and computed on the beneficiary's allocated shares of the deceased member's individual account balance and total service credit standing to the credit of the member as of the last day of the month preceding the member's death.

[(f) An individual designated as beneficiary by the member, or an individual designated as beneficiary under the Act, may not renounce, repudiate, or disclaim the benefit provided under this section, if in doing so the benefit would then become payable to the estate of the deceased member by default rather than by designation, except that in lieu of an annuity, an individual beneficiary may apply for a refund of that beneficiary's share of the deceased member's individual account balance.]

(f) [(g)] In the event that multiple persons are designated as beneficiaries by the member, the deceased member's individual account balance and total service credit shall be prorated among all beneficiaries, and each individual beneficiary may select any payment form described in subsection (c) and (d) of this section, above computed on the shares allocated to that individual. A beneficiary designated by the member or designated under the Act that is not an individual will receive installment payments as described in Subsection (g) [subsection (h)] of this section.

(g) [(h)] A designated beneficiary that is not an individual shall receive an amount equal to the allocated shares of the member's individual account balance and total service credit standing to the credit of the member as of the last day of the month preceding the member's death. The Board [board] authorizes the Director [director], subject to the determination made in Subsection (k) [subsection (l)] of this section, to cause the amount to be paid in up to sixty (60) monthly installments, with the final payment made on or before the last day of the calendar year containing the fifth anniversary of the member's death. Notwithstanding Subsection (j) [subsection (k)] of this section, interest shall accrue on unpaid amounts at the rate provided under the plan beginning from the last day of the month in which all necessary documents and applications have been filed with and approved by TCDRS [the system]. A distribution payable under this subsection is not considered to be a service retirement and therefore is not subject to the immediate transfer requirements of [Government Code,] Section 845.316 of the Government Code.

(h) [(i)] A trustee of a trust having a single primary beneficiary may elect with TCDRS [the system] that the beneficiary of the trust be considered as a named beneficiary for purposes of selecting an annuity but such election shall be effective only if the beneficiary of the trust would be considered a named beneficiary for purposes of the rules and regulations of the Internal Revenue Code relating to required minimum distributions.

(i) [(j)] An individual beneficiary who dies before filing an application for benefits or who fails to file an application within 90 days following notice from TCDRS [the system] that a benefit is payable shall be deemed to have selected the life annuity with the guarantee that the total of all payments will equal or exceed the share of the deceased member's individual account balance allocable to the beneficiary.

(j) [(k)] No interest shall accrue on any benefit payable under this section.

(k) [(l)] If the Director [director] determines that the payment under Subsection (g) [subsection (h)] of this section, of the total accrued benefit or of the unpaid balance of the benefit as a single sum will not harm or injure the funded status of the Employer's [subdivision's] account or jeopardize its ability to pay all benefits as benefits become due, the Board [board] authorizes the Director [director] to cause the distribution of the total accrued benefit or the remaining unpaid balance as the case may be, to be paid as a single sum in full satisfaction of all amounts due under the plan.

(l) [(m)] All distributions under this section must comply with the laws and regulations of the Internal Revenue Code.

§103.11. Group Term Life Benefit Based on Extended Coverage.

(a) A member of TCDRS [the system] who had coverage in the Group Term Life benefit program during the last month the member was required to make a contribution to TCDRS [the system] and who dies within 24 calendar months following that month, is considered to have received extended coverage in the Group Term Life benefit program provided that the member was unable to engage in gainful employment or was on leave of absence under the Family and Medical Leave Act of 1993 ("the FMLA") throughout the period beginning with the date of the member's last required contribution and ending on the date of the member's death.

(b) The person making the claim for payment of a Group Term Life benefit based on extended coverage has the burden of establishing that the deceased member was unable to engage in gainful employment or was on leave under the FMLA throughout the entire period of extended coverage, and the claimant must provide evidence satisfactory to TCDRS [the retirement system of that fact].

(c) The following are examples of documents relating to the member that may assist the claimant in meeting this burden of proof:

(1) copy of the decedent's death certificate;

(2) certified statements of attending physicians;

(3) certified statements of caregivers and custodians;

(4) certified statements of Employers [subdivisions] regarding absences under the FMLA;

(5) certified statements of individuals having personal knowledge of the decedent's education, training and work experience;

(6) copies of the decedent's tax returns covering the period of extended coverage;

(7) findings of the Social Security Administration, Workers Compensation Commission or other entities providing compensation for disability, illness or injury.

(d) In its determination of a claim filed under this section, TCDRS [the retirement system] may consider whether the impairment or incapacity affecting the decedent's ability to engage in gainful employment could have been safely diminished by the decedent with reasonable effort to the extent that the decedent would have been able to engage in gainful employment.

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

Filed with the Office of the Secretary of State on August 18, 2025.

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Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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CHAPTER 105. CREDITABLE SERVICE

34 TAC §§105.1 - 105.9, 105.41

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes amendments to Chapter 105 concerning Creditable Service. This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

BACKGROUND AND PURPOSE

As a result of the review, TCDRS proposes amendments to §§105.1 - 105.9 and 105.41. The amendments are non-substantive changes to clarify language and to update terminology consistent with changes simultaneously proposed to §101.1 concerning definitions. The amendments are discussed below.

SECTION-BY-SECTION SUMMARY

Proposed amendments to §§105.1 - 105.9 and 105.41 are non-substantive changes to clarify language and update terminology consistent with the definitions proposed in §101.1.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed amendments to Chapter 105.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 105 will be a more concise and accurate statement of the administrative rules of TCDRS regarding how service is calculated under the TCDRS plan, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed to clarify how service is calculated under the TCDRS plan. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of how service is calculated under the TCDRS plan. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to TCDRSRuleComments@tcdrs.org. Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The amendment of existing Chapter 105 is proposed and implements the authority granted under Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration TCDRS. In addition, the rule changes are proposed because of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implement § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§105.1. Persons Employed by Multiple Employers [~~Subdivisions~~].

(a) Any person who is concurrently employed by two or more participating Employers [~~subdivisions~~] shall be considered a covered employee of each.

(b) Each employee-member shall make monthly employee contributions at the rate specified in the participation order of the particular Employer [~~employing subdivision~~] upon all compensation paid that person by such Employer [~~employer~~]. Each Employer [~~employing subdivision~~] shall withhold the employee contributions required on account of the compensation paid such employee by such Employer [~~subdivision~~].

(c) The employee-member may receive only one month of credited service for any calendar month in which covered service was performed for two or more participating Employers [~~subdivisions~~]. When determining an employee-member's retirement eligibility with respect to an Employer [~~employing subdivision~~], the credited service for a calendar month in which the employee-member was also performing covered service for another participating Employer [~~subdivision~~] shall be counted as credited service performed for the Employer [~~employing subdivision~~], for which retirement eligibility is being determined. When determining the retirement eligibility of an employee-member with respect to both Employers [~~subdivisions~~] simultaneously, credited service is subject to the general rules of TCDRS [~~the system~~] for recognizing and combining service among the several Employers [~~subdivisions~~] but in no event may credited service for any calendar month be counted twice.

§105.2. Combining Credited Service with Multiple Employers [~~Subdivisions~~].

(a) A member must satisfy the retirement eligibility requirement of the particular Employer [~~subdivision~~] with which the member is applying for retirement.

(b) All of a member's credited service in TCDRS [~~this system~~], as defined in Section 841.001 [~~§841.001(7)~~] of the Government Code [~~Act~~], will be combined and recognized for purposes of determining eligibility for service and disability retirements with respect to each Employer [~~subdivision~~], and eligibility for the survivor annuity.

(c) All credited service described in Subsection [~~subsection~~] (b) [~~of this section~~] will be combined with all other credited service of the member recognized under the proportionate retirement program for purposes of determining eligibility for service retirement with respect to each Employer [~~subdivision~~].

(d) Credited service of the member recognized under the proportionate retirement program may not be combined with the member's credited service in TCDRS [~~this system~~], as defined in Section 841.001 [~~§841.001(7)~~] of the Government Code [~~Act~~] for purposes of determining eligibility for any disability retirement or survivor annuity.

(e) When combining service for purposes of determining eligibility, only one month of credited service may be recognized for any particular calendar month.

~~[(f) A member eligible for disability retirement under §844.302(a) of the Act, is eligible for disability retirement from all subdivisions with which the member has service credit.]~~

§105.3. ~~[Optional]~~ Credited Service for Active Duty Qualified Military Service.

(a) In this section:

(1) The term "credited service" means membership service for determining retirement eligibility only. Member contributions and monetary credits are not required or permitted with respect to credited service for qualified military service [~~established after December 31, 1999~~].

(2) The term "eligible member" means a member of an Employer [~~eligible subdivision~~] who has established credited service in TCDRS [~~the retirement system~~] for at least the minimum period required to receive a service retirement annuity from the Employer [~~subdivision~~] at age 60, who has performed active duty qualified military service, and who has been released from military duty under honorable conditions.

(3) The term "qualified military service" means active duty service in the uniformed services as defined in 38 U.S.C. Section [§]4303(13). It excludes that service which was performed in a month for which the member has received credited service in TCDRS [~~this retirement system~~] under any other provision of the TCDRS Act or the Uniformed Services Employment and Reemployments Rights Act of 1994, and that service, credited by another retirement system, that is recognized by TCDRS [~~this retirement system~~] under the proportionate retirement program. A member may not be credited with more than one month of service for any calendar month.

(b) Subject to the limitations in Subsection [~~subsection~~] (a) [~~of this section~~], an eligible member may receive one month of credited service in TCDRS [~~the retirement system~~] for each month of qualified military service performed while on active duty. An eligible member may not establish more than 60 months of credited service in TCDRS [~~the retirement system~~] for qualified military service under this section.

§105.4. Credited Service Under The Uniformed Services Employment And Reemployment Rights Act.

(a) An eligible member may receive credited service for service in the uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (the USERRA) (38 U.S.C. Section [§]4301 et seq.). Notwithstanding any provision to the contrary, the rights and benefits of an eligible member under TCDRS[~~the Texas County and District Retirement System (the System)~~] shall not be less than those rights and benefits provided by the USERRA.

(b) The following words and terms, when used in this section shall have the following meanings unless the context clearly indicates otherwise.

(1) Eligible member -- An employee of a participating subdivision who is or would be considered to be employed in a position eligible for membership but who leaves employment with that subdivision to perform service in the uniformed services; whose employer was notified of the obligation or intention of the employee to perform service in the uniformed services; who is released or discharged from such service on or after December 12, 1994 under honorable conditions; whose cumulative period of service in the uniformed services with respect to that participating subdivision does not exceed five years not including periods excluded under 38 U.S.C. Section [§]§1412(c); who applies for reemployment with that participating subdivision within 90 days of release or discharge from the uniformed services, or after recovery from an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services (but such recovery period does not exceed two years); and who is reemployed by the participating subdivision.

(2) Uniformed services -- The Armed Forces of the United States of America; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or emergency.

(3) Service in the uniformed services -- The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which an employee is absent from a position of employment for the purpose of an examination to determine the fitness of the employee to perform such duty.

(4) Participating subdivision -- A subdivision that is participating in TCDRS [~~the Texas County and District Retirement System~~] at the time the eligible member leaves employment with the subdivision to perform service in the uniformed services; a subdivision that

is not participating in TCDRS [~~the System~~] at the time the employee leaves employment with the subdivision to perform service in the uniformed services but commences participation during the period of the employee's performance of duty in a uniformed service; or a subdivision participating in TCDRS [~~the System~~] that is a successor in interest to the participating subdivision from which the eligible member left employment to perform service in the uniformed services.

(c) Certification of Eligibility by Participating Subdivision. An eligible member will be credited with current service in accordance with the USERRA upon certification by the participating subdivision on forms provided by TCDRS [~~the System~~]:

(1) that the eligible member's reemployment application is timely;

(2) that the eligible member has not exceeded the service limitations set forth in the USERRA;

(3) that the eligible member was not released or discharged from the uniformed service under other than honorable conditions;

(4) of the period in which the eligible member performed service in the uniformed services;

(5) that the eligible member did not receive service credit for the period of uniformed service;

(6) of the estimated compensation that the eligible member would have received from the subdivision but for the period of service in the uniformed services; and

(7) of the eligible member's date of reemployment.

(d) Credited Service and Optional Contributions under the USERRA.

(1) Provided the member has not received credited service for the same month under another provision of [~~Texas~~] Government Code, Title 8, an eligible member shall be credited with one month of current service credit for each month or part of a month in which both of the following occur:

(A) the eligible member performed service in the uniformed services, and

(B) the participating subdivision participated in TCDRS [~~the System~~].

(2) On or before the last day of the fifth calendar year following the year in which the eligible member was reemployed, the eligible member may, but is not required to, deposit with TCDRS [~~the System~~] any or all employee contributions that would have been deposited to the member's individual account for each period during which the member performed service in the uniformed services if the eligible member had been employed with the participating subdivision during the period of uniformed service. Deposits under this provision are considered to be employee contributions made in the calendar year of deposit for purposes of employer matching and are subject to the following rules:

(A) The total deposits may not exceed the amount the eligible member would have been required to contribute had the eligible member remained continuously employed by the participating subdivision throughout the period of service in the uniformed services.

(B) The compensation upon which allowable deposits will be calculated is the estimated compensation that the eligible member would have received from the subdivision but for the period of service in the uniformed services.

(C) For purposes of determining the months of credited service and allowable deposits, months of uniformed service and estimated compensation shall be calculated from the later of the date the eligible member entered uniformed service or the date the participating subdivision commenced participation in TCDRS [~~the System~~].

(D) Within the allowable period for making deposits and subject to the maximum total amount of deposits, an eligible member may make deposits at any time and in any amount.

(E) Deposits may be paid directly to TCDRS [~~the System~~] by the eligible member or by the employer through payroll deduction. Optional deposits made under this section are employee contributions and may not be returned until the member terminates from employment with the participating employer.

(F) Deposits will be allocated prospective interest only, and in the same manner as interest is allocated on member contributions to individual accounts.

(G) An eligible member receiving credited service under this section for a specific month may not receive credited service for the same month under any other provision of the [~~Texas~~] Government Code, Title 8.

§105.5. Correction of Errors by Employers: Record Adjustments.

(a) An Employer [~~The sponsoring employer~~] is responsible for the correction of an error arising from an act or omission of the Employer [~~employer~~] that results in a person contributing more or less than the correct amount to TCDRS [~~the system~~] or receiving more or less credited service, service credit or benefits than the person is rightfully entitled to receive under TCDRS [~~the system~~].

(b) If the error involves member contributions, the Employer [~~employer~~] may initiate the correction process directly via the employer portal on the TCDRS [~~retirement system~~] website as follows:

(1) The Employer [~~employer~~] must provide identifying information for the affected member or members, the time period during which the error occurred, and the amount of the correction to member contributions submitted by the Employer [~~employer~~]. The member contributions are determined according to the employee deposit rate in effect at the time that the error occurred.

(2) The Employer [~~employer~~]will also submit an employer contribution based on the sum total of the member contributions made in connection with the correction and the employer contribution rate in effect at the time that the correction is made by the Employer [~~employer~~].

(c) Depending on the nature of adjustment requested pursuant to this section, the Director [~~director~~] may require that the application must be approved by the governing board of the Employer [~~employer~~] or by the county judge or chief operating officer of the Employer [~~employer~~] before it may be accepted by TCDRS [~~the system~~].

(d) Adjustments to service credits or benefits shall be considered as part of, and funded in the same manner as, any other pension liabilities of TCDRS [~~the system~~].

(e) A person seeking an adjustment to a record based on an act or omission of the Employer [~~subdivision~~] must apply to the Employer [~~sponsoring employer~~] for a correction of the error. TCDRS [~~The system~~] will not receive applications for record adjustments from any person other than an Employer [~~employer~~]. If TCDRS [~~the system~~] receives information relating to a possible error from a person other than an Employer [~~employer~~], TCDRS [~~the system~~] shall forward the information to the appropriate Employer [~~employer~~].

[(f) The following words and terms, when used in this section, shall have the following meanings:]

[(1) "Accepted" means approved by the system for making adjustments to a person's record in accordance with the terms of the application.]

[(2) "Credited service" means months of service recognized for purposes of retirement eligibility.]

[(3) "Employer" means a subdivision participating in the retirement system.]

[(4) "Employer portal" means the online application maintained by the retirement system in which employers administer their plan, report payroll information, and make contributions.]

[(5) "Individual account" means the separate account maintained for a member consisting of the member's contributions, deposits and accumulated interest credited to the account for the benefit of the member.]

[(6) "Record" means all information and amounts relating to the person and the person's beneficiary and includes information and amounts relating to the person's individual account, contributions, deposits, credited service, service credit and benefits.]

[(7) "Service credit" means the monetary credits granted to a member who performs service for a participating employer.]

§105.6. Calculation of Current Service Credit.

(a) Except as otherwise provided by law or rules established by TCDRS [the System], TCDRS [the System] shall credit a member with one month of current service for each calendar month for which contributions are made, reported, and certified by the Employer [employing subdivision] for purposes of determining length-of-service requirements and calculating benefits.

(b) Except as otherwise provided by law or rules established by TCDRS [the System], if an elected county or precinct official who is a member declines compensation pursuant to Section [§]152.052 of the [Texas] Local Government Code, TCDRS [the System] shall credit such member with one month of credited service for each month worked without compensation that is reported and certified by the Employer [employing subdivision] for purposes of determining length-of-service requirements, but shall not credit such member with service credit (monetary credit) for months worked without compensation for purposes of calculating benefits.

§105.7. Service Credit for Certain Public Employment.

(a) An Employer [A participating subdivision] may by order authorize the establishment of credited service for service performed by employees of a governmental entity that subsequently:

(1) was merged, converted, or otherwise transferred into the Employer [participating subdivision]; or

(2) transferred the employment of the employees to the Employer [participating subdivision].

(b) A member eligible for credited service under this section pursuant to an order adopted under Subsection (a) is one who was employed by a governmental entity on the date that the governmental entity was merged, converted or otherwise transferred into the Employer [participating subdivision] or the date that such member's employment was transferred to the Employer [participating subdivision].

(c) If a member is eligible for proportionate service under Chapter 803 of the [Texas] Government Code for the service for the governmental entity described by Subsection (a), then no additional credited service is available under this section.

§105.8. Employee Termination Date.

An Employer [A participating subdivision] must submit the date of termination of employment for each member who is enrolled in TCDRS [the retirement system]. The termination date should be submitted to TCDRS as soon as practicable after [the retirement system within 15 days of] the member's termination of employment[, or as soon as practicable].

§105.9. Notice By Employer [Participating Subdivision] of Certain Felony Convictions of Elected or Appointed Officers.

(a) An Employer [A participating subdivision] must provide written notice on a form prescribed by TCDRS [the Texas County and District Retirement System (the "system")] of the conviction of any member of TCDRS [the system] who was elected or appointed to a public office of the Employer [participating subdivision] and who is convicted of a qualifying felony committed while in office and arising directly from the official duties of that office.

(b) "Qualifying felony" means any felony that is committed on or after June 6, 2017 involving one or more of the following:

(1) bribery;

(2) embezzlement, extortion, or other theft of public money;

(3) perjury;

(4) coercion of public servant or voter;

(5) tampering with governmental record;

(6) misuse of official information;

(7) conspiracy or the attempt to commit any of the offenses described in paragraphs (1) - (6) of this subsection; or

(8) abuse of official capacity.

(c) An Employer [A participating subdivision] must provide the notice required by Subsection [subsection] (a) [of this section] to TCDRS [the system] no later than the 30th day after the conviction of the member.

(d) The notice should be on a form prescribed by TCDRS [the system] and must:

(1) clearly state the convicted member's name, title of public office, date of conviction, court of jurisdiction, case number, qualifying felony violation, date of offense, and an explanation of the connection of the qualifying felony to the member's performance of his or her official duties;

(2) include a copy of the official conviction of the member entered by court, including the judge's affirmative finding of fact that the member is an elected or appointed holder of a public office of the Employer [participating subdivision] who committed a qualifying felony while in office and in the course of performing official duties of the office; and

(3) if applicable, include a copy of the court's award of all or a portion of the member's service retirement annuity to the member's spouse pursuant to a just and right division upon the member's conviction or pursuant to a written agreement between the spouses entered into prior to the member's conviction as provided by Subchapter B, Family Code.

§105.41. Credited Service and Survivor Benefits Under the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act).

(a) In accordance with Section [§]401(a)(37) of the Internal Revenue Code (Section [§]104(a) of the HEART Act), the survivors of

a member who dies after December 31, 2006, while performing qualified military service under the USERRA, are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided under the employer's plan had the member resumed employment and then terminated employment on account of death.

(b) A deceased member described above will receive credited service for the period of the deceased member's qualified military service for purposes of determining eligibility for a Survivor Annuity in accordance with Section [§]844.407 of the Government Code [~~Act~~] (but such period of qualified military service will not increase the deceased member's accrued benefit used to determine the amount of any survivor annuity for which the deceased member's survivors may or may not be eligible).

(c) A deceased member described above will be included in the coverage of any Member Optional Group Term Life Program elected by the employer under Section [§]842.004 of the Government Code [~~Act~~], with the death benefit based on the annualized regular rate of pay or regular salary paid the member in accordance with Section [§]844.503(c) of the Government Code [~~Act~~] during the most recent pay period of active employment prior to the commencement of qualified military service.

(d) TCDRS [~~The System~~] does not adopt the permissive provisions of Section [§]104(b) of the HEART Act, as added by Section [§]414(u)(9) of the Internal Revenue Code relating to benefit accruals. However, pursuant to the authority granted the Board by Section [§]845.102 of the Government Code [~~Act~~]), and in conformance with 26 CFR Section [§]1.401(a)(4)-11(d)(3) relating to rules for imputing military service and periods of disability as credited service, any member who, after December 31, 2006, becomes disabled (based on the criteria set forth in subparagraphs (A) and (B) of Section [§]844.303(b)(2) of the Government Code [~~Act~~]) while performing the member's qualified military service under the USERRA, is entitled to credited service in TCDRS [~~the retirement system~~] for the period of qualified military service under the USERRA. However, such period of qualified military service will not increase the disabled member's accrued benefit used to determine the amount of any service, disability or survivor annuity for which the member or the member's survivors may or may not become eligible. The disabled member will be included in the coverage of any Member Optional Group Term Life program elected by the Employer [~~employer~~] under Section [§]842.004 of the Government Code [~~Act~~] and not terminated and will, subject to Section [§]844.502 of the Government Code [~~Act~~], be eligible to receive extended coverage during the two years following the onset of disability, provided that sufficient evidence of the member's continuous disability and its date of onset is submitted to TCDRS [~~the retirement system~~] on application for a death benefit based on the disabled member's compensation described in Subsection [~~subsection~~] (c) [~~of this section~~].

(e) In accordance with Section [§]414(u)(12) of the Internal Revenue Code (Section [§]105(b) of the HEART Act), and effective as of January 1, 2009, amounts received by a member as a "differential wage payment" (within the meaning of the Internal Revenue Code) for any period that such member is not performing services for the employer by reason of qualified military service will be treated as "compensation" for purposes of benefit accruals under the Act and will be treated as compensation for purposes of the Internal Revenue Code to the extent so required.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502971
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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CHAPTER 107. MISCELLANEOUS RULES

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes the repeal of current 34 TAC Chapter 107 ("Chapter 107"), relating to miscellaneous rules, and proposes to replace current Chapter 107 with proposed new Chapter 107, also relating to miscellaneous rules. This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

REPEAL OF CURRENT CHAPTER 107

TCDRS proposes the repeal of current 34 TAC Chapter 107, which includes the following sections: 34 TAC §107.1, Confidentiality of Board Records; 34 TAC §107.2 Payments by Members to Purchase Forfeited Benefits; 34 TAC §107.3, Direct Rollovers and Trustee-to-Trustee Transfers; 34 TAC §107.4, Bona Fide Termination of Employment; 34 TAC §107.5, Termination of Membership on Withdrawal; Cancellation of Valid Withdrawal Application; 34 TAC §107.6, Penalty for Late Reporting; Waiver of Penalty; 34 TAC §107.7 Extension of Due Date; 34 TAC §107.8, Electronic Transfer of Funds; 34 TAC §107.9, Electronic Filing of Documents; 34 TAC §107.10, Treatment of Ineligible Benefit Payments; 34 TAC §107.12, Payments Due or Suspended on Death of Annuitant; 34 TAC §107.13, Membership of Leased Employees; 34 TAC §107.14, Acceptance of Rollovers and Transfers; 34 TAC §107.15, Resumption of Enrollment; 34 TAC §107.16, Exclusive Purpose; 34 TAC §107.17, Annual Allocation of Net Investment Income or Loss; and 34 TAC §107.18, Special Prior Service Contribution Rates.

PROPOSAL OF NEW CHAPTER 107

As proposed, the new Chapter 107 will address: 34 TAC §107.1, Payments by Members to Purchase Forfeited Benefits; 34 TAC §107.2, Direct Rollovers from TCDRS and Trustee-to-Trustee Transfers; 34 TAC §107.3, Bona Fide Termination of Employment; 34 TAC §107.4, No Cancellation of Valid Withdrawal Application; 34 TAC §107.5, Electronic Transfer of Funds Relating to Employers; 34 TAC §107.6, Treatment of Ineligible Benefit Payments; 34 TAC §107.7 Payments Due or Suspended on Death of Person Entitled to Benefit; 34 TAC §107.8, Acceptance of Rollovers and Transfers; and 34 107.9 Annual Allocation of Net Investment Income or Loss.

BACKGROUND AND PURPOSE

TCDRS proposes to repeal and replace Chapter 107 to update definitions consistent with changes simultaneously proposed in Chapter 101, eliminate unnecessary rules, and update rules to reflect current procedures. In addition, the repeal and replacement of Chapter 107 is proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

Many provisions of proposed new Chapter 107 rules are substantially similar to the provisions of the existing Chapter 107, which is proposed to be repealed. The proposed changes are described below.

SECTION-BY-SECTION SUMMARY

The proposed repeal of Chapter 107, containing §§107.1 - 107.10 and 107.12 - 107.18, allow for updates to be proposed.

In addition to the general reason for the repeal of Chapter 107 as stated above, further explanation is provided below for the following sections of Chapter 107.

§107.1 is proposed for repeal as it is redundant of Section 845.115 of the Government Code, which provides for the confidentiality of participant data.

§§107.6 - 107.7 are proposed for repeal as they are redundant of Section 845.407 of the Government Code, which provides a penalty for late contributions and a process for an employer to request an extension of the contribution deadline.

§107.9 is proposed for repeal as this topic is included in §101.3 Filing of Documents that is being simultaneously proposed.

§107.13 is proposed for repeal as the definition of employee is included in Section 841.001(8) of the Government Code and is not necessary for the administration of the TCDRS plan.

§107.15 is proposed for repeal as the language is archaic and not applicable under current law.

§107.16 is proposed for repeal as this rule is simultaneously being proposed as new Section 101.14 in Chapter 101, as it has general applicability to all the rules.

§107.18 is proposed for repeal as the language is unnecessary as Section 844.703(f) of the Government Code authorizes special prior service contribution rates.

Proposed new Chapter 107, Miscellaneous Rules, contains the rules listed below.

Proposed new §§107.1 - 107.3, §§107.5 - 107.6, and §§107.8 - 107.9 provide non-substantive changes to clarify language and update terminology consistent with the definitions proposed in §101.1 and with current TCDRS processes.

Proposed new §107.4 provides that a person may not cancel a valid withdrawal application after it has been submitted to TCDRS.

Proposed new §107.7 provides non-substantive changes to clarify language and update terminology consistent with the definitions proposed in §101.1 and increases the total benefit amount for which TCDRS will make payment in trust to a relative of the decedent from $5,000 to $10,000.

New Chapter 107 also reorders and renumbers rules to make them procedurally chronological, and current rules §§107.1, 107.6, 107.7, 107.9, 107.13, 107.15, 107.16, and 101.18, are deleted as unnecessary and redundant with other rules.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed repeal of current Chapter 107 and the proposed replacement of current Chapter 107 with the new Chapter 107 rules.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 107 will be a more concise and accurate statement of the administrative rules of TCDRS regarding miscellaneous rules impacting the administration of the TCDRS plan and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed to enhance comprehension of the miscellaneous rules impacting the administration of the TCDRS plan for TCDRS members, participating Employers, and other interested parties. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed to enhance comprehension of the miscellaneous rules impacting the administration of the TCDRS plan. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation (because new Chapter 107 updates and replaces existing Chapter 107); does not expand, limit or repeal an existing regulation (because new Chapter 107 updates and replaces existing Chapter 107); does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register*.

34 TAC §§107.1 - 107.10, 107.12 - 107.18

STATUTORY AUTHORITY

The repeal of existing Chapter 107 is proposed and implements the authority granted under the following provisions of the TCDRS Act: Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed repeal of Chapter 107 implements § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§107.1. Confidentiality of Board Records.
§107.2. Payments by Members to Purchase Forfeited Benefits.
§107.3. Direct Rollovers and Trustee-to-Trustee.
§107.4. Bona Fide Termination of Employment.
§107.5. Termination of Membership on Withdrawal; Cancellation of Withdrawal Application.
§107.6. Penalty for Late Reporting; Waiver of Penalty.
§107.7. Extension of Due Date.
§107.8. Electronic Transfer of Funds.
§107.9. Electronic Filing of Documents.
§107.10. Treatment of Ineligible Benefit Payments.
§107.12. Payments Due or Suspended on Death of Annuitant.
§107.13. Membership of Leased Employees.
§107.14. Acceptance of Rollovers and Transfers.
§107.15. Resumption of Enrollment.
§107.16. Exclusive Purpose.
§107.17. Annual Allocation of Net Investment Income or Loss.
§107.18. Special Prior Service Contribution Rates.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502972
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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34 TAC §§107.1 - 107.9

STATUTORY AUTHORITY

The proposal of new Chapter 107 is proposed and implements the authority granted under the following provisions of the TCDRS Act: Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implement § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§107.1. Payments by Members to Purchase Forfeited Benefits.

(a) Pursuant to Section 843.0031 of the Government Code, a member who has withdrawn accumulated contributions from TCDRS and is a contributing member with another participating Employer or again becomes a contributing member with any participating Employer may at any time before retirement pay to TCDRS for deposit to the member's individual account a lump-sum in any amount that does not exceed the amount withdrawn plus an amount equal to the Employer matching on the withdrawn amount that is applicable for the year the account is reinstated, which TCDRS deems as satisfying the requirements under Section 843.0031 of the Government Code.

(b) An amount paid under subsection (a) of this section will be deposited to the member's individual account as accumulated contributions and credited with interest as allowed by Government Code, Title 8, Subtitle F.

(c) The amount paid under subsection (a) of this section together with all accumulated interest attributable to that amount is not subject to Employer matching.

§107.2. Direct Rollovers from TCDRS and Trustee-to-Trustee Transfers.

(a) TCDRS shall permit a distributee of an eligible rollover distribution to elect, at the time and in the manner prescribed by TCDRS, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions:

(1) Eligible Rollover Distribution--An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, excluding any portion of the distribution that includes after tax contributions that are includible in gross income, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee (annuity payments);

(B) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code (required minimum distribution).

(2) Eligible Retirement Plan--An eligible retirement plan includes individual retirement accounts and retirement plans authorized under federal law including:

(A) an individual retirement account described in §408(a) of the Internal Revenue Code of 1986;

(B) an individual retirement annuity described in §408(b) of the Internal Revenue Code of 1986;

(C) a qualified trust described in §401(a) of the Internal Revenue Code of 1986 or an annuity plan described in §403(a) of the Internal Revenue Code of 1986 that accepts the eligible rollover distribution;

(D) for distribution made on or after December 31, 2001, an annuity contract described in §403(b) of the Internal Revenue Code of 1986;

(E) for distributions made on or after December 31, 2001, an eligible plan under §457(b) of the Internal Revenue Code of

1986 which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state which agrees to separately account for amounts transferred into such plan from this system; and

(F) for distributions made on or after December 31, 2007, a Roth IRA described in §408A of the Internal Revenue Code of 1986;

(3) Distributee--A distributee includes a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in §109.2 of this title (relating to Definitions), are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover--A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

(c) The system shall, upon the request of a beneficiary of a deceased member who is not a distributee, within the meaning of subsection (c)(3) of this section, transfer a lump sum distribution to the trustee of an individual retirement account established under §408 of the Internal Revenue Code of 1986 (or for distributions after December 31, 2009, to the trustee of an individual retirement account established under §408A of the Internal Revenue Code of 1986) in accordance with the provisions of §402(c)(11) of the Internal Revenue Code.

(d) Notwithstanding anything in this section to the contrary, a distribution shall not fail to be an eligible rollover distribution merely because a portion of the distribution consists of after-tax contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Internal Revenue Code §408(a) or (b), or to a qualified plan described in Internal Revenue Code §401(a) or §403(a) that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(e) It is the responsibility of the distributee to determine that the retirement plan selected to receive the direct rollover is an eligible plan pursuant to this rule.

(f) TCDRS shall implement this section in a manner that causes TCDRS to be considered a qualified plan under §401(a) of the Internal Revenue Code.

§107.3. Bona Fide Termination of Employment.

(a) Distributions without a bona fide termination of employment are prohibited under Sections 842.110(a) and (b) of the Government Code. A distribution of benefits to a member before there has been a bona fide termination of employment under Section 842.110(a) Government Code, is an in-service distribution and an operational error which could lead to a plan disqualification under the Internal Revenue Code and results in the assessment of taxes, back taxes, interest and penalties against the subdivision and its participants.

(b) The term "employment" under Section 842.110(a) of the Government Code includes service as an employee and service as an appointed or elected official.

(c) A person who is employed by, or holds an elected or appointed position or office with an Employer is in active employment and is not separated from service for purposes of retirement eligibility and is not eligible to receive a distribution of benefits with respect to the Employer before a complete and bona fide termination of employment occurs. A member who has experienced a bona fide termination of employment is an inactive member.

(d) Whether a termination of employment is a bona fide termination is dependent on the facts and circumstances surrounding the termination.

(e) A termination is not a bona fide termination if there has not been a complete termination and severance of the employer-employee relationship. Failure to strictly follow the Employer's termination policies, practices, processes and procedures regularly followed by the Employer suggests that the termination was not bona fide.

(f) A termination is not a bona fide termination merely because the period of separation of employment from the Employer, or separation from service from elected or appointed office, is greater than one calendar month. The statutory requirement of a break in service of at least one calendar month is a further limitation upon the eligibility of a reemployed person to have received a distribution and is in addition to, and not in lieu of, the requirement that the termination of employment must be a bona fide termination of employment.

(g) Notwithstanding strict adherence to the Employer's regular employment termination polices, practices, processes and procedures or any other facts and circumstances, a termination is not a bona fide termination of employment if at the time of termination there is an expectation, understanding or agreement, whether express or implied, between the Employer or employee, or an agent of either, that the termination is or will be temporary or that the person will be rehired in the future, whether such rehire is:

(1) for the same position or a different position;

(2) at a greater, lesser, or equivalent level of compensation;

(3) in the same or any other division or department of the Employer;

(4) as a full-time, part-time or temporary employee; or

(5) as an independent contractor performing essentially the same services that the individual was performing as an employee.

§107. 4. No Cancellation of Valid Withdrawal Application.

Once a valid withdrawal application is submitted to TCDRS, it may not be cancelled.

§107.5. Electronic Transfer of Funds Relating to Employers.

(a) In this section:

(1) The term "ACH" (Automated Clearing House) means the legal framework of rules and operational procedures adopted by financial institutions for the electronic transfer of funds.

(2) The term "ACH Credit" means an ACH transaction initiated by an Employer for the electronic transfer of funds from the account of an Employer to the account of TCDRS.

(3) The term "ACH Debit" means an ACH transaction initiated by TCDRS for the electronic transfer of funds from the account of an Employer to the account of TCDRS.

(4) The term "electronic transfer of funds" means the transfer of funds, other than by check, draft or similar paper instrument, that is initiated electronically to order, instruct, or authorize a financial institution to debit or to credit an account. Amounts sent to TCDRS by electronic transfer of funds are received on the date the funds are credited to TCDRS's account.

(5) The term "pre-authorized direct debit" means the method available to an Employer for electronically paying required contributions by granting a continuing authorization to TCDRS to initiate an ACH Debit each month for the electronic transfer of funds

from the designated bank account of the Employer to the account of TCDRS in an amount equal to the contributions required to be paid based on the monthly report as filed.

(6) The term "wire transfer" generally means a single transaction, initiated by an Employer, in which funds are electronically transferred to the account of TCDRS using the Federal Reserve Banking System rather than the ACH.

(b) Monthly amounts required to be contributed to TCDRS in accordance with Chapter 845 of the Texas Government Code must be made by pre-authorized direct debits (ACH Debits), ACH Credits, or wire transfers.

(c) An Employer may elect to use the pre-authorized direct debit method of payment by filing a signed authorization agreement with TCDRS in which the Employer has designated a single bank account from which all transfers will be made.

(1) The authorization agreement entered into for this purpose constitutes continuing authority for TCDRS to initiate a direct debit of the Employer's designated bank account each month and shall be effective with respect to each payroll of the Employer.

(2) An authorization agreement shall remain in effect until TCDRS receives a valid new written agreement that designates a different bank account. A new authorization agreement must be filed if there is any change in the designated bank account. TCDRS, in its sole discretion, may terminate the authorization agreement by sending written notice to the Employer. Thereafter, the Employer must remit all contributions by ACH Credit or wire transfer.

(3) Following receipt of a payroll report filed under an unrevoked authorization agreement, TCDRS will initiate an ACH Debit in the amount required to be contributed for that month based on the report; however the actual transfer of funds from the Employer's designated account will not occur prior to the due date of the report.

(4) An Employer that timely files payroll reports with TCDRS is considered to have submitted their required contributions provided that there are sufficient funds available for transfer from the Employer's designated account on the later of the due date of the report or the date the report is received. An ACH Debit that is reversed by an Employer or that fails because sufficient funds are not available for transfer constitutes non-payment of the required contributions with respect to that monthly report and, thereafter, such required contributions will not be considered to have been received until the day the funds are actually credited to the account of TCDRS.

(d) An Employer failing to timely file the required information or remit the required contributions by the due date of the report is subject to a penalty for late reporting in accordance with Section 845.407 of the Government Code (relating to Penalty for Late Contributions).

§107.6. Treatment of Ineligible Benefit Payments.

(a) In this section the term "ineligible benefit payment" means that portion of a payment or distribution, other than a Group Term Life benefit payment, made by TCDRS to, or on behalf of, a living or deceased person who was not legally entitled to the payment at the time it was made. An ineligible benefit payment is a receivable of TCDRS.

(b) In this section the term "recipient" means the person or persons who, directly or indirectly, received an ineligible benefit payment.

(c) If a repayment of an ineligible benefit payment issued from the Pension Trust Fund as described in Section 845.305(b) of the Government Code is not received by TCDRS, TCDRS may offset the amount of the ineligible benefit payment against benefit payments from the Pension Trust Fund otherwise due the recipient.

(d) If the Director determines that an ineligible benefit payment issued from the Pension Trust Fund as described in Section 845.305(b) of the Government Code is not recoverable, the receivable shall be charged against the general reserves account of the endowment fund provided the ineligible benefit payment was not the result of an error or omission of a participating Employer. If the Director determines that an ineligible benefit payment made from the Group Term Life Fund is not recoverable, the receivable shall be charged against the Group Term Life Fund.

(e) If the Director determines that the ineligible benefit payment issued from the Pension Trust Fund was the result of an error or omission of a participating Employer and determines that the payment is not recoverable, the receivable shall be charged against the Employer's account in the Employer's accumulation fund.

(f) In making his or her determination, the Director may consider the amount of the ineligible benefit payment, the likelihood of repayment, the costs of recovery, and any other fact or circumstance which the Director considers to be relevant in finding that further efforts for the recovery of the payment are not in the best interests of TCDRS, its members and annuitants.

§107.7. Payments Due or Suspended on Death of Person Entitled to Benefit.

(a) Payments that are due a deceased person entitled to a TCDRS benefit and have not been made, or have been made but are not negotiable after the person's death are payable to the valid surviving beneficiary of the person on file with TCDRS on the date of the person's death. If there is no surviving beneficiary, the payments are payable to the person's spouse. If there is no surviving spouse, the payments are payable to the executor or administrator of the person's estate.

(b) If the total value of the payments described above is not more than $10,000, and there is no surviving beneficiary or spouse (or diligent efforts by TCDRS to discover, locate and correspond with a surviving beneficiary or spouse have proven fruitless); and no petition for the appointment of an administrator or executor is pending or has been granted, and a small estates affidavit has not been filed with TCDRS, then upon application, TCDRS may, but is not required to, issue payment (including any optional group term life benefit), in trust to a relative of the decedent who would have a right of inheritance assuming the decedent had died intestate without relatives of a closer degree.

§107.8. Acceptance of Rollovers and Transfers.

(a) If permitted under and subject to the provisions of federal law, TCDRS may accept an eligible rollover distribution from another eligible retirement plan in payment of all or a portion of any deposit a member is permitted under applicable law to make with TCDRS for service credit.

(b) If permitted under and subject to the provisions of federal law, TCDRS may accept a direct trustee-to-trustee transfer of funds from a plan described under Section 403(b) or Section 457(b) of the Internal Revenue Code in payment of all or a portion of any deposit a member is permitted to make with TCDRS for service credit.

(c) In order to authorize the rollover or transfer of funds described in this section, a member shall provide or cause to be provided to TCDRS information sufficient for TCDRS in its sole discretion to reasonably conclude that the contribution is a valid rollover or direct trustee-to-trustee transfer as permitted under federal tax law. If TCDRS later determines that a contribution was an invalid rollover or direct trustee-to-trustee transfer or otherwise not permitted under federal tax law, TCDRS may take any action appropriate, permissible or required by the Internal Revenue Code or regulations issued thereunder, including return of the invalid contribution and, if applicable, any earnings

attributed thereto to the member within a reasonable time after the determination and cancellation of any credit purchased with the returned amounts.

(d) TCDRS shall construe and administer this section in a manner such that the plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code, (United States Code, Title 26, §401).

§107.9. Annual Allocation of Net Investment Income or Loss.

In accordance with the allocations prescribed in Section 845.315(a) of the Government Code, and pursuant to Section 845.315(a)(5), as of December 31 of each year, the Board shall allocate to the accounts of Employers positive or negative amounts as determined by the Board, to the January balances of that year. The allocation rule prescribed by this section shall not apply to the Employers described in Sections 845.315(a)(6) and (b) of the Government Code.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502973
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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CHAPTER 109. DOMESTIC RELATIONS ORDERS

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes the repeal of current 34 TAC Chapter 109 ("Chapter 109"), relating to domestic relations orders, and proposes to replace current Chapter 109 with proposed new Chapter 109, also relating to domestic relations orders. This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

REPEAL OF CURRENT CHAPTER 109

TCDRS proposes the repeal of current 34 TAC Chapter 109, which includes the following sections: 34 TAC §109.1, Purpose; 34 TAC §109.2 Definitions; 34 TAC §109.3, Notice Regarding Receipt of Order; 34 TAC §109.4, Requirements for Qualified Domestic Relations Orders; 34 TAC §109.5, Contents of Domestic Relations Order; 34 TAC §109.7 Approval of Order; 34 TAC §109.9, Order Appearing Not To Qualify; 34 TAC §109.12, Payments to Alternate Payees; 34 TAC §109.13, Form of Qualified Domestic Relations Order; and 34 TAC §109.14, Provisions Incorporated by Reference.

PROPOSAL OF NEW CHAPTER 109

As proposed, the new Chapter 109 will address: 34 TAC §109.1, Definitions; 34 TAC §107.2, Notice Regarding Receipt of Order; 34 TAC §109.3, Requirements for Qualified Domestic Relations Orders; 34 TAC §107.4, Contents of Domestic Relations Orders; 34 TAC §109.5, Approval of Order; 34 TAC §109.6, Order Appearing Not To Qualify; 34 TAC §109.7, Payments to Alternate Payees; 34 TAC §109.8 Form of Qualified Domestic Relations Order; and 34 TAC §109.9, Provisions Incorporated by Reference.

BACKGROUND AND PURPOSE

TCDRS proposes to repeal and replace Chapter 109 to update definitions consistent with the definitions simultaneously proposed in Chapter 101, eliminate unnecessary rules, and update rules to reflect current procedures. In addition, the repeal and replacement of Chapter 109 is being proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

All provisions of proposed new Chapter 109 rules are substantially similar to the provisions of the existing Chapter 109, which is proposed to be repealed. The proposed new rules are described below.

SECTION-BY-SECTION SUMMARY

The proposed repeal of Chapter 109, containing §§109.1 - 109.5, 109.7, 109.9, and 109.12 - 109.14, allow for updates to be proposed.

In addition to the general reasons for the repeal of Chapter 109 as stated above, further explanation is provided below for the following sections of Chapter 109.

§109.1 is proposed for repeal because the stated purpose is unnecessary in a rule.

§109.2(6) is proposed for repeal because it is unnecessary. There is no single person designated as a domestic relations liaison as multiple TCDRS staff process domestic relations orders.

§109.12(e) proposed repeal is to bring the rule in line with the statute. Existing language relates to a repealed statutory provision.

Proposed new Chapter 109, Domestic Relations Orders, contains the rules listed below.

Proposed new §§109.1, 109.2 and §§109.4 - 109.9 provide nonsubstantive changes to the pre-existing Sections to clarify language and update terminology consistent with the definitions being proposed in §101.1 and with current TCDRS practices.

Proposed new §109.3 amends language to bring the rule in line with the Section 804.003(b) of the Government Code and repeals the requirement that both the participant and the alternate payee must sign the qualified domestic relations order, which added an unnecessary step to the processing of a court issued order.

Proposed new §109.7 removes an incorrect statement regarding when an alternate payee may take a withdrawal.

New Chapter 109 also reorders and renumbers rules to make them procedurally chronological, and current rule §109.1 is deleted as unnecessary.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed repeal of current Chapter 109 and the proposed replacement of current Chapter 109 with the new Chapter 109 rules.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local

governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 109 will be a more concise and accurate statement of the administrative rules governing how TCDRS administers domestic relations orders, and to enhance comprehension of the rules for TCDRS members, participating Employers, and other interested parties.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed for clarification of how TCDRS administers domestic relations orders. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of how TCDRS administers domestic relations orders. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation (because new Chapter 109 updates and replaces existing Chapter 109); does not expand, limit or repeal an existing regulation (because new Chapter 109 updates and replaces existing Chapter 109); does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register*.

34 TAC §§109.1 - 109.5, 109.7, 109.9, 109.12 - 109.14

STATUTORY AUTHORITY

The repeal of existing Chapter 109 is proposed and implements the authority granted under the following provisions of the TCDRS Act: (i) Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed repeal of Chapter 109 implements § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§109.1. Purpose.

§109.2. Definitions.

§109.3. Notice Regarding Receipt of Order.

§109.4. Requirements for Qualified Domestic Relations Orders.

§109.5. Contents of Domestic Relations Order.

§109.7. Approval of Order.

§109.9. Order Appearing Not To Qualify.

§109.12. Payments to Alternate Payees.

§109.13. Form of Qualified Domestic Relations Order.

§109.14. Provisions Incorporated by Reference.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502974
Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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34 TAC §§109.1 - 109.9

STATUTORY AUTHORITY

The proposal of new Chapter 109 is proposed and implements the authority granted under the following provisions of the TCDRS Act: (i) Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implement § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§109.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accumulated contributions--The contributions, other member deposits, and interest credited to a member's individual account in the employees saving fund. Accumulated contributions do not include employer matching or any employer-provided credits.

(2) Actuarial present value--The value of a benefit that, as computed by TCDRS in its sole discretion, is consistent with Section 841.001(1) of the Government Code.

(3) Alternate payee--A spouse, former spouse, child, or other dependent of a member or retiree who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by TCDRS with respect to such member or retiree. The alternate payee's information is subject to the confidentiality provisions in Section 845.115 of the Government Code.

(4) Benefits--Any of the payments or benefits described in Section 109.12.

(5) Domestic relations order--Any judgment, decree, or order (including one which approves a property settlement agreement) which:

(A) relates to the provision of child support, temporary support, or marital property rights to a spouse, former spouse, child, or other dependent of a member or former member of TCDRS; and

(B) is made pursuant to the Texas Family Code or any other applicable domestic relations or community property law.

(6) Participant--A member, former member of TCDRS who has sums of money on deposit with TCDRS or who is or may become entitled to receive any benefit from TCDRS based on membership in TCDRS, or a former member TCDRS who has commenced receiving a monthly benefit from TCDRS.

(7) Parties--The participant and all alternate payees named in a domestic relations order.

(8) Vested--A participant is vested when he or she has earned the right to receive a lifetime monthly benefit in the future under the terms of the Plan.

§109.2. Notice Regarding Receipt of Order.

Upon receiving a domestic relations order, TCDRS shall promptly send a notice to those persons listed in paragraphs (1) and (2) of this section, stating that TCDRS has received the domestic relations order and that it will be acted upon by TCDRS in accordance with the procedures set forth in this chapter. The persons who are to receive the notice are:

(1) the participant or, if the participant is represented by an attorney (and TCDRS has been provided with the name and address of such attorney in connection with the domestic relations order), to such attorney or to such other person as may be designated in writing by the participant with regard to the domestic relations order; and

(2) all alternate payees named in the domestic relations order if their names and addresses are provided in the order; or, if an alternate payee is represented by an attorney (and TCDRS has been provided with the name and address of such attorney in connection with the domestic relations order), to such attorney or to such other person as may be designated in writing by an alternate payee with regard to the domestic relations order.

§109.3. Requirements for Qualified Domestic Relations Orders.

A recital in a domestic relations order to the effect that it is a qualified domestic relations order is not sufficient to make it qualified under this chapter. To constitute an order as a qualified domestic relations order under this chapter, an order must be determined by TCDRS to meet the requirements set forth in this chapter and Section 109.5 (relating to Contents of Domestic Relations Order). In making that determination, the order itself, and any clarification order entered by a court of competent jurisdiction, and any affidavits or agreements between the parties that are filed with TCDRS may be considered.

§109.4. Contents of Domestic Relations Order.

(a) A domestic relations order should clearly specify:

(1) the full name and address of the participant and each alternate payee covered by the order, and attached to the order must be a Statement of Confidential Information which includes their respective social security numbers, dates of birth, and other contact information;

(2) the alternate payee's interest in the Plan which, in the case of an active participant, must be stated as a percent of participant's accumulated contributions that accrued during the marriage, and which includes future interest earned on the portion of accumulated contributions awarded to the alternate payee. A domestic relations order that is entered after the participant has retired under a service or disability retirement must clearly specify that the participant's annuity is divided into two single life annuities as described in Section 109.6,with one such life annuity being the alternate payee's interest in the Plan and the other life annuity being the participant's interest in the Plan; and

(3) whether the order applies only to benefits under TCDRS or, if not, to what other plans the order applies, and in what manner.

(b) A domestic relations order does not meet the requirements of this chapter for qualified domestic relations orders if:

(1) it purports to require TCDRS to provide any type or form of benefit, or any option, not otherwise authorized under the Act;

(2) it purports to require TCDRS to make any payment of any benefit or portion thereof at a time not otherwise authorized under the Act;

(3) it purports to require the payment of benefits to an alternate payee which are required (or purported to be required) to be paid to another alternate payee under another order previously determined by TCDRS to be a qualified domestic relations order under this chapter (including any such order so determined on an informal basis prior to adoption of this chapter); or

(4) it is worded in a manner that does not advise TCDRS (taking into account the provisions of the Act, the wording of the order, and the provisions of this chapter) in clear and unambiguous language as to what portion of the benefits that otherwise might be or become payable to the participant (or to the participant's designee or estate) are to be paid to each alternate payee under the order.

§109.5. Approval of Order.

If, upon receipt of a domestic relations order, TCDRS is of the opinion that it complies in all ways with the requirements for a qualified domestic relations order under this chapter, TCDRS shall so state in the notice to be sent under Section 109.3 (relating to Notice Regarding Receipt of Order).

§109.6. Order Appearing Not To Qualify.

(a) If, upon receipt of a domestic relations order, TCDRS is of the opinion that the order does not comply in all ways with the requirements for a qualified domestic relations order under this chapter

TCDRS shall so state (in the notice to be sent under Section 109.3 (relating to Notice Regarding Receipt of Order)) and notify the parties that unless they commence action within 90 days to bring the order into compliance with the provisions of this chapter relating to qualified domestic relations orders the order will be determined not to be a qualified domestic relations order. If 60 days have elapsed and neither party has submitted documentation to TCDRS reflecting that action has been commenced to bring the order into compliance, TCDRS will again notify each party that unless documentation has been submitted to TCDRS showing that action has been commenced before the expiration of the 90-day period the order will be determined not to be a qualified domestic relations order and TCDRS will pay to the participant any sums that have been withheld up to that date, and shall thereafter make payment of benefits as if no order had been received by TCDRS.

(b) If TCDRS has made an initial determination under this section that the order does not appear to qualify, TCDRS nonetheless may (but shall not be required to) pay to the participant all or any portion of any benefits to which the participant appears entitled under the order. Any benefits not paid under this subsection shall be retained by TCDRS until they are paid under one of the remaining subsections of this section.

(c) In the event that, in the opinion of TCDRS, the order is subsequently brought into compliance with the requirements of this chapter for qualified domestic relations orders, TCDRS so notify the parties in writing, and TCDRS will thereafter pay the sums payable under the order in the manner set forth in the order, unless such order is subsequently set aside or modified by a court of competent jurisdiction.

(d) In the event that either party has timely commenced action in accordance with Subsection (a) of this section and TCDRS determines after the expiration of 90 days from the date of the notice under Section 109.3 (relating to Notice Regarding Receipt of Order) that the order has not been brought into compliance with the requirements of this chapter for qualified domestic relations orders, the order is not a qualified domestic relations order. TCDRS shall so notify the parties in writing, and TCDRS will pay to the participant any sums that have been withheld hereunder after the expiration of six months from the date the notice under Section 109.3 (relating to Notice Regarding Receipt of Order) was provided (provided that upon good cause being shown prior to the expiration of such six-month period, the time for bringing the order into compliance may be extended for up to two additional six-month periods), and shall thereafter make payment of benefits as if no order had been received.

(e) Upon receipt of a subsequent order that TCDRS determines qualifies under this chapter, TCDRS will make payment as therein described.

(f) Upon the expiration of 18 months from the date the domestic relations order was received, if the issue of whether or not the order is a qualified domestic relations order has not been resolved within that period of time, TCDRS will pay to the participant all sums that have been withheld hereunder up to that date, and shall thereafter make payment of benefits as if no order had been received by TCDRS.

(g) In accordance with Section 841.009 of the Government Code, neither TCDRS nor any officials to TCDRS shall be liable for making any payment under this section.

§109.7. Payments to Alternate Payees.

(a) At any time after a pre-retirement qualified domestic relations order is filed and approved by TCDRS the alternate payee may withdraw in a lump sum the accumulated contributions attributable to the interest awarded to the alternate payee by the qualified domestic relations order. By withdrawing contributions, the alternate payee forfeits all employer-provided credits and the right to commence a life annuity or any other benefit.

(b) The alternate payee may commence a life annuity calculated in accordance with the terms of the Plan and based on the interest awarded in a pre-retirement qualified domestic relations order to such alternate payee at such time when the participant:

(1) is eligible to retire;

(2) commences a disability retirement;

(3) dies and was eligible for a survivor death benefit under Section 844.407 of the Government Code; or

(4) has attained the age at which the participant would have been eligible to retire, if the participant withdrew his or her account and was vested at the time of withdrawal.

(c) An alternate payee may commence an annuity under Subsection (b)(1) even if the participant has not retired or under Subsection (b)(4) even if the participant is not eligible for an annuity benefit.

(d) If the participant dies before commencing a benefit, and the participant was eligible for a survivor annuity under Section 844.407 of the Government Code, then the alternate payee may commence an annuity under Subsection (b)(3) or withdraw the accumulated contributions awarded under the qualified domestic relations order.

(e) The alternate payee must commence a distribution when the participant attains the required minimum distribution age under federal law. If the participant is still a depositing member and not vested, then the alternate payee is not required to commence an annuity or take a withdrawal. If the participant is vested when a mandatory distribution is required, the alternate payee is eligible for an annuity benefit.

(f) If the alternate payee dies before commencing a benefit, and the participant is eligible for a survivor annuity benefit under Section 844.407 of the Government Code or has commenced a disability retirement, then the alternate payee's beneficiary must commence a survivor annuity pursuant to Section 844.407 that is actuarially equivalent to the deceased alternate payee's benefit awarded under the qualified domestic relations order.

(g) If the alternate payee dies before commencing a benefit and the participant is not eligible for a survivor benefit under Section 844.407 of the Government Code, then the alternate payee's beneficiary is eligible for a benefit equal to the accumulated contributions awarded to the alternate payee at the time of the alternate payee's death.

(h) If the alternate payee dies after commencing a life annuity, then the alternate payee's beneficiary may be eligible for a lump sum payment equal to the difference of the aggregate annuity payments made to the alternate payee, less the accumulated contributions associated with the interest awarded to the alternate payee, if any. If no valid beneficiary exists, or if the alternate payee dies without having a designated valid beneficiary, the benefit that would have otherwise been payable to the beneficiary of the deceased alternate payee is payable to the deceased alternate payee's surviving spouse, or if no surviving spouse, to the deceased alternate payee's estate.

(i) Subsections (a) - (h) of this section will apply to all pre-retirement domestic relations orders approved in accordance with this chapter after January 1, 2018, and to such domestic relations orders approved prior to that date that are construed to provide for such an annuity or withdrawal.

(j) If a qualified domestic relations order is received by TCDRS after the participant begins receiving a retirement annuity, TCDRS shall divide the annuity into two single life annuities; one payable to the alternate payee and the other payable to the participant in accor-

dance with the order and the rules of the Plan. TCDRS shall compute the two single life annuities by determining the actuarial present value of participant's current annuity as of the date that TCDRS has approved the order, and creating an annuity payable to the alternate payee based on the actuarial present value of participant's current annuity awarded under the order to the alternate payee and creating a second life annuity payable to participant based on the remaining actuarial present value of participant's current annuity. Payments to the participant and to the alternate payee cease upon their respective deaths.

(k) If a qualified domestic relations order is received by TCDRS after the participant begins receiving a retirement annuity under which the participant chose a dual life option, or a guaranteed term option and the term has not expired, and designated a person other than the alternate payee as beneficiary, then TCDRS, in computing the two single life annuities to be paid to the participant and the alternate payee respectively, shall first calculate the actuarial present value of the participant's current annuity that is not attributable to the beneficiary as of the date that TCDRS has approved the order. The interest of the beneficiary in the participant's current retirement annuity will not be affected by the division of benefits. The actuarial present value of the participant's current annuity that is not attributed to the beneficiary is then divided into two single life annuities. The single life annuity payable to the alternate payee is based on the actuarial present value of the participant's current annuity not attributable to the beneficiary awarded under the order to the alternate payee, and the participant's single life annuity is computed based on the remaining actuarial present value of the participant's current annuity not attributable to the beneficiary.

(l) The mortality assumption for alternate payees for determining the actuarial equivalent of a benefit payable to an alternate payee shall be the same as the mortality assumption for beneficiaries as set forth in §103.1 of this title (relating to Actuarial Tables) with regard to service retirements.

(m) If the participant's employer grants a cost of living adjustment pursuant to the terms of the Plan, and if the alternate payee has commenced an annuity, then the alternate payee is eligible to receive a cost of living adjustment to his or her annuity.

(n) Notwithstanding any other provision of this chapter, all distributions made under this chapter must be determined and made in accordance with Section 401(a) of the Internal Revenue Code, including but not limited to Section 401(a)(9); and Section 415.

§109.8. Form of Qualified Domestic Relations Order.

TCDRS has prescribed forms that are pre-approved by TCDRS as meeting the requirements of state law for a qualified order. The prescribed forms are available on TCDRS' website, and are also available upon request. The prescribed forms incorporate by reference the provisions of this chapter. TCDRS may reject any domestic relations order submitted to TCDRS that does not utilize the applicable prescribed form.

§109.9. Provisions Incorporated by Reference.

An order on the form set forth in Section 109.13 (relating to Form of Qualified Domestic Relations Order) expressly incorporates all of the following by reference.

(1) The order shall not be interpreted in any way to require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan.

(2) The order shall not be interpreted in any way to require the Plan to provide increased benefits determined on the basis of actuarial value.

(3) The order shall not be interpreted in any way to require the Plan to pay any benefits to an/any alternate payee named in the order which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

(4) If the Plan provides for a reduced benefit upon "early retirement," the order shall be interpreted to require that, in the event of the participant's retirement before normal retirement age, the benefits payable to the alternate payee shall be reduced in a proportionate amount.

(5) The order shall not be interpreted to require the designation of a particular person as the recipient of benefits in the event of the participant's death, or to require the selection of a particular benefit payment plan or option.

(6) In the event that, after the date of the order, the amount of any benefit otherwise payable to the participant is increased as a result of amendments to the law governing the Plan, alternate payee shall receive a proportionate part of such increase unless such an order would disqualify the order under the rules the Plan has adopted with regard to qualified domestic relations orders.

(7) In the event that, after the date of the order, the amount of any benefit otherwise payable to the participant is reduced by law, the portion of benefits payable to alternate payee shall be reduced in a proportionate amount.

(8) If, as a result of the participant's death after the date of the order, a payment is made by the Plan to the participant's estate, surviving spouse, or designated beneficiaries, which payment does not relate in any way to the participant's length of employment or accumulated contributions with the Plan, but rather is purely a death benefit payable as a result of employment or retired status at the time of death, no portion of such payment is community property, and the alternate payee shall have no interest in such death benefit.

(9) If the Board of the Plan has by rule provided that, in lieu of paying an alternate payee the interest awarded by a qualified domestic relations order, the Plan may pay the alternate payee an amount that is the actuarial equivalent of an annuity payable in equal monthly installments for the life of the alternate payee, or a lump sum, then and in that event the Plan is authorized to make such a payment under the order.

(10) All payments to alternate payee under the order shall terminate upon the alternate payee's death, and alternate payee's beneficiary may be entitled to a benefit under Section 109.12.

(11) All benefits payable under the Plan, other than those payable to the alternate payee as provided in a qualified domestic order, shall be payable to the participant in such manner and form as the participant may elect in his/her sole and undivided discretion, subject only to the Plan requirements.

(12) The alternate payee must report any retirement payments received on any applicable income tax return, and must promptly notify the Plan of any changes in the alternate payee's mailing address. The Plan is authorized to issue a Form 1099R on any direct payment made to the alternate payee.

(13) The participant is designated a constructive trustee for receiving any retirement benefits under the Plan that are due to the alternate payee but paid to the participant. The participant must pay the benefit defined in this paragraph directly to the alternate payee within three days after receipt by the participant. All payments made directly to the alternate payee by the Plan shall be a credit against this order.

(14) The Court retains jurisdiction to amend the order so that it will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated.

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

Filed with the Office of the Secretary of State on August 18, 2025.

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Ann McGeehan
General Counsel
Texas County and District Retirement System
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 328-8889

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CHAPTER 111. TERMINATION OF PARTICIPATION: SUBDIVISIONS

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes the repeal of current 34 TAC Chapter 111 ("Chapter 111"), relating to termination of participating subdivisions, and proposes to replace current Chapter 111 with proposed new Chapter 111, also relating to termination of participating subdivisions (employers). This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

REPEAL OF CURRENT CHAPTER 111

TCDRS proposes the repeal of current 34 TAC Chapter 111, which includes the following sections: 34 TAC §111.1, Purpose; 34 TAC §111.2, Definitions; 34 TAC §111.3, Notices Voluntary Termination; and 34 TAC §111.4, Notices Involuntary Termination.

PROPOSAL OF NEW CHAPTER 111

As proposed, the new Chapter 111 will address: 34 TAC §111.1, Notice of an Employer's Intent to Terminate Participation and 34 TAC §111.2, Notice by TCDRS to Members of Terminated Plans.

BACKGROUND AND PURPOSE

TCDRS proposes to repeal and replace Chapter 111 to update definitions consistent with the definitions proposed in Chapter 101, eliminate unnecessary rules, and update rules to reflect current procedures. In addition, the repeal and replacement of Chapter 111 is proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

Proposed new Chapter 111 updates notice requirements to reflect current practices.

SECTION-BY-SECTION SUMMARY

The proposed repeal of Chapter 111, containing §§111.1 - 111.4, allow for updates to be proposed.

Proposed new Chapter 111, Termination of Participation: Employers contains the rules listed below.

Proposed new §111.1 defines the content required in a participating employer's notice to TCDRS that the employer intends to terminate its participation. The notice must be filed with TCDRS at least 90 days in advance.

Proposed new §111.2 defines the content required in TCDRS' notice to members of terminated plans and provides that notice must be issued no later than 10 business days after the Board approves the termination terms.

New Chapter 111 also reorders and renumbers rules to make them procedurally chronological, and current rules §§111.1 and 111.2 are deleted as unnecessary.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed repeal of current Chapter 111 and the proposed replacement of current Chapter 111 with the new Chapter 111 rules.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 111 will be a more concise and accurate statement of the administrative rules of TCDRS regarding the process to terminate an Employer's participation in the TCDRS plan.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed for clarification of the process to terminate an Employer's participation in the TCDRS plan. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of benefits administration and claims for members of TCDRS and other interested parties. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation (because new Chapter 111 updates and replaces existing Chapter 111); does not expand, limit or repeal an existing regulation (because new Chapter 111 updates and replaces existing Chapter 111); does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not

impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register*.

34 TAC §§111.1 - 111.4

STATUTORY AUTHORITY

The repeal of existing Chapter 111 is proposed and implements the authority granted under the following provisions of the TCDRS Act: Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed repeal of Chapter 111 implements §845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§111.1. Purpose.

§111.2. Definitions.

§111.3. Notices - Voluntary Termination.

§111.4. Notices - Involuntary Termination

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

Filed with the Office of the Secretary of State on August 18, 2025.

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General Counsel
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34 TAC §111.1, §111.2

STATUTORY AUTHORITY

The repeal of existing Chapter 111 is proposed and implements the authority granted under the following provisions of the TCDRS Act: Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS. In addition, the rule changes are proposed as a result of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERENCE TO STATUTE

The proposed new rules implement § 845.102 of the Government Code. No other statute, code or article is affected by the proposed rules.

§111.1. Notice of an Employer's Intent to Terminate Participation.

An Employer other than a county desiring to terminate its participation in TCDRS must provide at least 90 days advance written notice to TCDRS. The notice must include a proposed timeline that includes reasonable time for the development of a mutually developed termination agreement pursuant to Section 842.052 of the Government Code and that allows time for approval by the Board.

§111.2. Notice by TCDRS to Members of Terminated Plans.

After the Board approval of a voluntary or involuntary termination of participation under Subchapter A-1 of Chapter 842 of the Government Code, TCDRS must provide written notice to all impacted members of their rights to benefits under the terms of the termination. Notice must be issued no later than 10 business days after the Board approval of the termination.

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

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Ann McGeehan
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CHAPTER 113. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM QUALIFIED REPLACEMENT BENEFIT ARRANGEMENT

34 TAC §§113.1 - 113.6

The Board of Trustees ("Board") of the Texas County and District Retirement System ("TCDRS") proposes amendments to Chapter 113 concerning the Texas County and District Retirement System Qualified Replacement Benefit Arrangement. This proposal is part of the administrative rule review conducted by TCDRS in compliance with the Government Code §2001.039.

BACKGROUND AND PURPOSE

As a result of the review, TCDRS proposes amendments to §§113.1 - 113.6. The amendments are non-substantive and include changes to terminology consistent with changes simultaneously proposed to §101.1 concerning definitions. The amendments are discussed below.

SECTION-BY-SECTION SUMMARY

Proposed amendments to §§113.1 - 113.6 are non-substantive changes to update terminology consistent with the definitions proposed in §101.1.

On June 12, 2025, the TCDRS Board approved the publication for comment of the proposed amendments to Chapter 113.

FISCAL NOTE

Amy Bishop, Executive Director of TCDRS, has determined that for the first five-year period the proposed new rules are in effect there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed rules.

PUBLIC COST/BENEFIT

Ms. Bishop also has determined that for each year of the first five years the proposed new rules are in effect, the public benefit of Chapter 113 will be a more concise and accurate statement of the administrative rules of TCDRS regarding the administration of the Qualified Replacement Benefit Arrangement program.

LOCAL EMPLOYMENT IMPACT STATEMENT

TCDRS has determined that there will be no adverse economic effects on local economies or local employment because of the proposed new rules, which are proposed for clarification of the Qualified Replacement Benefit Arrangement program. Therefore, no local employment impact statement is required under Government Code §2001.022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TCDRS has determined that there will be no adverse economic effects on small businesses, micro-businesses, or rural communities because the proposed new rules are proposed for clarification of the Qualified Replacement Benefit Arrangement program. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

TCDRS has determined that for each year of the first five years the proposed new rules are in effect, the proposed rules: will not create or eliminate any TCDRS programs; will not require either the creation of or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TCDRS (TCDRS does not receive any legislative appropriations); will not require an increase or decrease in fees paid to TCDRS; will not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the rules' applicability; and, does not affect this state's economy.

TAKINGS IMPACT ASSESSMENT

TCDRS has determined that there are no private real property interests affected by the proposed new rules, therefore a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TCDRS has determined that Government Code §2001.0045(b) does not apply to the proposed new rules because they do not impose a cost on regulated persons (including another state agency, a special district, or a local government).

ENVIRONMENTAL RULE ANALYSIS

The proposed new rules are not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rules are not specifically intended to protect the environment or to reduce risks to human health from environmental exposure. Therefore, a regulatory environmental analysis is not required.

COMMENTS

Comments on the proposed rules may be submitted to Ann McGeehan, General Counsel, TCDRS, Barton Oaks Plaza IV, Ste 500, 901 South MoPac Expy, Austin, Texas 78746, or submitted electronically to TCDRSRuleComments@tcdrs.org. Written comments must be received by TCDRS no later than 30 days after publication of this notice in the *Texas Register.*

STATUTORY AUTHORITY

The amendment of existing Chapter 113 is proposed and implements the authority granted under (i) Government Code §845.102, which allows the Board to adopt rules it finds necessary or desirable for the efficient administration of TCDRS, and (ii) Government Code §845.504, which allows the Board to adopt rules to administer the excess benefit program in a manner consistent with federal law. In addition, the rule changes are proposed because of TCDRS' rule review, which was conducted pursuant to Government Code §2001.039.

CROSS REFERNCE TO STATUTE

The proposed new rules implement §§ 845.102 and 845.504 of the Government Code. No other statute, code or article is affected by the proposed rules.

§113.1. Purpose.

The Board of TCDRS [~~Trustees of the Texas County and District Retirement System~~] hereby establishes a qualified governmental excess benefit program in accordance with Section [§]415(m) of the Internal Revenue Code and as authorized under Section [§]845.504[~~,~~] of the Government Code. The program entitled as the "Texas County and District Retirement System Qualified Replacement Benefit Arrangement" is maintained solely for the purpose of providing for the payment of that portion of the annual retirement benefits that had been accrued by and would otherwise be payable with respect to a member of TCDRS [~~the Texas County and District Retirement System~~] but for the limitation on the payment of benefits under Section [§]415(b) of the Internal Revenue Code [~~of 1986, as amended~~].

§113.2. Definitions.

When [~~The following words and terms, when~~] used in this chapter the following words[~~, shall~~] have the following meanings [~~, unless the context clearly indicates otherwise~~].

~~[(1) "Act" means the provisions of Texas Government Code, Title 8, Subtitle F, as amended from time to time, establishing the Texas County and District Retirement System.]~~

(1) [~~(2)~~ "]Arrangement["]-- [~~means~~] the TCDRS [~~Texas County and District Retirement System~~] Qualified Replacement Benefit Arrangement, as set forth herein and as amended from time to time.

~~[(3) "TCDRS" or "System" means the Texas County and District Retirement System, as established under the provisions of the Act.]~~

(2) [~~(4)~~ "]Benefit Recipient["]-- [~~means~~] any individual who receives a retirement benefit from TCDRS as a Retiree or as a surviving beneficiary of a deceased Member or Retiree. The term may include an alternate payee of a deceased Member or Retiree.

(3) [~~(5)~~ "]Benefit["]--[~~means~~] a retirement benefit accrued under the provisions of the Act.

~~[(6) "Board" means the Board of Trustees of TCDRS.]~~

~~[(7) "Code" means the Internal Revenue Code of 1986, as amended (and corresponding provisions of any subsequent federal tax laws) and the regulations thereunder.]~~

(4) [~~(8)~~ "]Effective Date["]--[~~means~~] January 1, 2006, the effective date of the Arrangement.

(5) [~~(9)~~ "]Eligible Member["]--[~~means~~] a Retiree or a deceased Member or Retiree with respect to an Employer, from and after the date the Employer adopts the Arrangement.

~~[(10) "Employer" means an Employer whose employees are Members of TCDRS with respect to retirement benefits paid by TCDRS under the provisions of the Act; provided that the Employer signs an adoption agreement in the form specified by the Board to adopt the Arrangement.]~~

(6) [~~(11)~~ "]Restricted Benefit["]--[~~means~~] the maximum Benefit permitted to be paid to a Benefit Recipient under the Retirement Plan of the Employer, as limited by Internal Revenue Code Section [§]415, in accordance with Section [§]844.008 of the Government Code [~~Act~~].

(7) [~~(12)~~ "]Member["]--[~~means~~] any individual who accrues or has accrued a Benefit under the Act.

(8) [~~(13)~~ "]Participant["]--[~~means~~] any Benefit Recipient with respect to an Employer who is eligible to participate in the Arrangement in accordance with Section [§]113.3 of this chapter.

~~[(14) "Retirement Plan" means the defined benefit plan established under TCDRS for employees of the Employer, and their beneficiaries, in accordance with the Act, and qualified under Code §401(a).]~~

(9) [~~(15)~~ "]Retiree["]-- [~~means~~] a Member who receives a Benefit under the Act with respect to an Employer.

(10) [~~(16)~~ "]Unrestricted Benefit["]-- [~~means~~] the benefit that would be payable to a Benefit Recipient under the Retirement Plan of the Employer if the limits of Section [~~Code~~ §]415 of the Internal Revenue Code were not applicable in accordance with Section [§]844.008 of the Government Code [~~Act~~].

§113.3. Eligibility and Payments.

(a) Eligibility to Receive Payments. If, at the time an Eligible Member becomes a Retiree or dies or at any time thereafter, the Unrestricted Benefit of the Benefit Recipient under the Retirement Plan of the Employer exceeds the Restricted Benefit payable to the Benefit Recipient at that time, the Benefit Recipient shall become a Participant and shall be entitled to receive payments under this Arrangement, in accordance with the terms hereof, and may not waive or defer the receipt of such payments. A Benefit Recipient shall in no event become a Participant until the later of:

(1) January 1, 2006, the Effective Date of the Arrangement, or

(2) the effective date of the applicable Employer's adoption of the Arrangement.

(b) Amount of Payments. A Participant shall receive payments under this Arrangement equal to the difference between the Participant's Unrestricted Benefit and his or her Restricted Benefit, provided that the amount of payments so determined shall be subject to change and to such adjustments as TCDRS deems appropriate, from time to time. In no event shall a Participant be entitled to receive a payment under this Arrangement if such payment, when combined with other payments under this Arrangement and under the Retirement Plan of the Employer, would result in the Participant receiving total payments in excess of the Participant's Unrestricted Benefit.

(c) Form and Timing of Payments. Payments under this Arrangement shall be paid by the applicable Employer to each Participant at the time and in the form and manner as TCDRS [~~the System~~] may direct. Any election made by an Eligible Member with regard to the distribution of Benefits under TCDRS [~~the System~~], including the designation of a named beneficiary, as defined in Section [§]841.001(4) of the Government Code [~~Act~~], shall be equally applicable to and binding on such Eligible Member and on all persons who at any time have or claim to have any interest in connection with payments under this Arrangement.

(d) Effect on TCDRS. Any Benefit payable under the Retirement Plan of the Employer established under TCDRS shall be paid solely in accordance with the terms and provisions thereof and shall be subject to Section [§]415 of the Internal Revenue Code and other applicable tax limitations; nothing in this Arrangement shall operate or be construed in any way to modify, amend or affect the Benefits payable thereunder.

(e) Tax Withholding. All payments under this Arrangement shall be subject to and reduced by applicable federal, state and local income, payroll and other tax withholding requirements and all other applicable deductions required by this Arrangement or by law.

(f) Participation Determined Annually. Participation in the Arrangement shall be determined annually for each plan year. In any plan year, benefits shall only be paid under the Arrangement to a Participant after the date in the plan year that the benefits paid to such person from TCDRS under the Retirement Plan of the Employer have reached the maximum annual benefit that can be paid by TCDRS under Internal Revenue Code Section [§]415 for that plan year. The date the maximum annual benefit payment from TCDRS is reached is the beginning date of participation by the Participant for that plan year. The beginning date of a Participant's participation in the Arrangement may change from plan year to plan year as the amount payable under this Arrangement is redetermined. An individual's participation in the Arrangement will cease for any plan year or portion of a plan year for which the individual's Benefit is not limited by Internal Revenue Code Section [§]415.

(g) No Election to Defer Compensation. No election shall be provided at any time to a Participant or any other individual, directly or indirectly, to defer compensation under the Arrangement.

§113.4. Administration.

(a) Administrator. TCDRS shall be the Administrator of the Arrangement and shall be responsible for the supervision and control of the operation and administration of the Arrangement, except as otherwise provided herein. Subject to the authority of the Board, TCDRS shall have the exclusive right and full discretion to construe and interpret the Arrangement, to establish rules and procedures for its operation and administration, and to decide any and all questions of fact, actuarial valuation, interpretation, definition or administration arising under or in connection with the administration of the Arrangement. The interpretation and construction of any provisions of the Arrangement by the Administrator and its exercise of any discretion granted under the Arrangement shall be binding and conclusive on all persons who at any time have or claim to have any interest whatever under this Arrangement.

(b) Contributions and Payments.

(1) As soon as administratively feasible and before the receipt of Employer contributions, TCDRS shall calculate the portion of the Employer's contributions necessary to make the payments due to Participants of that Employer for the next payment period and for any applicable expenses under this Arrangement. Before depositing its contributions with TCDRS, the Employer shall deduct the calculated amounts and make payments directly to its Participants; and directly to TCDRS for any applicable expenses under the Arrangement. Notwithstanding the foregoing, if TCDRS determines, in its sole discretion,

that the allocation of contributions to the Arrangement would jeopardize the actuarial soundness of the Retirement Plan of the Employer, TCDRS shall terminate the Arrangement and shall notify the participating Employer and Participants.

(2) Amounts deducted for payments and expenses under the Arrangement shall be separately accounted for and shall be used exclusively for payments and expenses under the Arrangement.

(3) The Employer from whom the Eligible Member retired or died while a Member with respect to such Employer shall be solely responsible for paying any amounts due to the Participant under the terms of the Arrangement. TCDRS shall have no obligation to pay any amounts due under the terms of the Arrangement.

(4) The Employer shall be responsible for satisfying all tax withholding, payroll tax payments, other applicable tax payments and reporting requirements applicable to the Arrangement, if any, and shall be responsible for administering all payments due under the Arrangement.

(c) Plan Unfunded. This Arrangement shall at all times be entirely unfunded within the meaning of the federal tax laws. Nothing contained herein shall be construed as providing for assets to be held in trust for the Participants. No Participant or any other person shall have any interest in any assets of TCDRS or any Employer by reason of the right to receive a payment under the Arrangement. Nothing contained herein shall be construed as a guarantee by TCDRS, any Employer, or any other entity or person that the assets of the Employer will be sufficient to pay any benefit hereunder.

(d) Appeal Procedure. In the event a dispute arises between the Employer and the Administrator relating to the determination of the Administrator or the interpretation, operation or administration of this Arrangement, the Administrator's decision shall be final, conclusive and binding unless the Employer submits an appeal directly to the Director [~~Board within 20 days from the date of notice of the decision, for consideration and action~~] in accordance with Section 101.11 [~~the administrative review procedures set forth in 34 TAC Sections §§101.19- 101.23. The action of the Board, taken on its own motion or as the result of an appeal, is final, conclusive, and binding~~].

§113.5. Amendment and Termination.

(a) Amendment and Termination of the Arrangement. The Board reserves the right, in its sole discretion, to amend or terminate the Arrangement at any time and from time to time. By way of example, and not limitation, the Arrangement may be amended or terminated to eliminate all payments with respect to any Member or other individual who has not become eligible to participate in the Arrangement as of the date of such amendment or termination by reason of retirement or death in accordance with Section [§]113.3(a) of this chapter. In addition, an amendment or termination may be retroactive to the extent that the Board deems such action necessary, in its sole discretion, to maintain the tax-qualified status of TCDRS [~~the System~~] or the status of this Arrangement as a qualified governmental excess benefit arrangement as defined in Internal Revenue Code Section [§]415(m) or to avoid jeopardizing the actuarial soundness of the Retirement Plan of the Employer.

(b) Termination of Employer's Participation.

(1) An Employer may terminate its participation in the Arrangement at any time with the consent of and on terms established by the Administrator.

(2) The Administrator may terminate the participation of an Employer if the Employer fails to comply with the rules established by the Board for the administration of the Arrangement as from time to time amended or modified, or fails to perform in accordance with the adoption agreement. The determination of an Employer's failure to comply and subsequent involuntary termination of participation is within the sole discretion and authority of the Administrator. The Administrator's decision is final, conclusive and binding unless timely appealed directly to the Board in accordance with Section [§]113.4(d) of this chapter.

(c) Participants. If an Employer's participation in the Arrangement is voluntarily or involuntarily terminated, then any person who is a Benefit Recipient with respect to that Employer and who is a Participant in the Arrangement shall immediately cease such participation and shall be entitled to no benefits under this Arrangement and no benefits shall be paid or due to such Participant on or after the date of such termination. On the termination of an Employer in the Arrangement, the Employer shall have sole and complete responsibility and liability for paying any benefits that would otherwise be payable under the Arrangement with respect to its Participants, and TCDRS [~~the System~~] and all other participating Employers shall have no responsibility or liability for any such benefits.

§113.6. General Provisions.

(a) Applicable Law.

(1) All questions pertaining to the validity, construction and administration of the Arrangement shall be determined in conformity with the laws of the State of Texas, except to the extent federal law preempts state law.

(2) If any provision of the Arrangement or the application thereof to any circumstance or person is invalid, the remainder of the Arrangement and the application of such provision to other circumstances or persons shall not be affected thereby.

(b) Indemnification. To the extent allowed by law, an Employer electing to participate in the Arrangement must agree to indemnify, defend, and hold harmless TCDRS [~~the System~~], the employees of TCDRS [~~the System~~], the Board, and all other Employers participating in the Arrangement from and against any and all direct or indirect liabilities, demands, claims, losses, costs and expenses, including reasonable attorney's fees, arising out of or resulting from the Employer's participation in the Arrangement and/or the Employer's voluntary or involuntary termination of participation in the Arrangement. The agreement of the Employer to indemnify, defend and hold harmless survives the termination of the Employer's participation in the Arrangement and the termination of the Arrangement.

(c) Nonalienation. Benefits under this Arrangement shall not be subject to alienation or legal process, except to the extent permitted under Government Code, Chapter 804.

(d) No Enlargement of Employment Rights. The establishment of the Arrangement shall not confer any legal rights upon any employee or other person for a continuation of employment, nor shall it interfere with the rights of the Employer to discharge any employee and to treat the employee without regard to the effect which that treatment might have upon the employee as a Participant in the Arrangement.

(e) Information Required By Arrangement. Benefit Recipients, other individuals and Employers shall furnish to the Administrator such evidence, data and information as the Administrator considers necessary or desirable for the purpose of administering the Arrangement.

(f) Paying Benefits, Costs and Expenses from TCDRS Assets is Prohibited. No assets of TCDRS [~~the System~~] shall be used directly or indirectly to pay benefits under the Arrangement or to pay any costs or expenses of administering the Arrangement. Expenses of administering the Arrangement may include expenses for professional, legal,

accounting, and other services, and other necessary or appropriate costs of administration.

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

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General Counsel
Texas County and District Retirement System
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 145. PAROLE

SUBCHAPTER A. PAROLE PROCESS

37 TAC §§145.3, 145.12, 145.13, 145.15, 145.18

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 145, §§145.3, 145.12, 145.13, 145.15, and 145.18 concerning the policy statements relating to parole release decisions by the Board of Pardons and Paroles. The amendments are proposed to incorporate the new statutory language from Senate Bill 1506 89th Legislative Session regarding the reconsideration of parole after the first anniversary date of denial.

Marsha Moberley, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Moberley also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be to reduce the number of times victims will be notified of the parole panel's reconsideration of an offender's parole review. There will be no effect on small businesses, micro-businesses or rural areas. There is no anticipated economic cost to persons required to comply with the amended rule as proposed. No regulatory flexibility analysis required by HB 3430 is necessary.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code, Section 2006.001(2).

Government Growth Impact Statement. In compliance with Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the agency; lead to an increase or decrease in the fees paid to the department, create new regulations; expand, limit or repeal existing regulations; increase or decrease the number of individuals subject to the rule's applicability, or positively or adversely affect this state's economy.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under §§508.036 and 508.0441, Texas Government Code. Section 508.036 requires the board to adopt rules relating to the decision-making processes used by the board and parole panels; and §508.0441 provides the board with the authority to consider and order release on parole or mandatory supervision.

No other statutes, articles or codes are affected by these amendments.

§145.3. Policy Statements Relating to Parole Release Decisions by the Board of Pardons and Paroles.

To aid the Board in its analysis and research of parole release, the Board adopts the following policies.

(1) Release to parole is a privilege, not an offender right, and the parole decision maker is vested with complete discretion to grant, or to deny parole release as defined by statutory law.

(A) Candidates for parole are evaluated on an individual basis.

(B) There are no mandatory rules or guidelines that must be followed in every case because each offender is unique. The Board and Parole Commissioners have the statutory duty to make release decisions, which are only in the best interest of society. The Board and parole panels use parole guidelines as a tool to aid in the discretionary parole decision process.

(2) The Board will reconsider for release an offender who is [~~, other than an offender~~] serving a sentence under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, [~~for an offense listed in Section 508.149(a), Government Code~~] as soon as practicable after the first anniversary of the date of denial.

(3) The Board will reconsider an offender for release [~~an offender who is serving a sentence for an offense under Section 508.149(a), Government code or an offense punishable as a second or third degree felony under Section 22.04, Penal Code,~~] after the first anniversary date of the denial and end before the fifth anniversary date of denial[~~, but in no event shall it be less than one (1) calendar year from the panel decision date~~].

(4) The Board will reconsider for release an offender who is serving a sentence for an offense under Section 22.021, Penal Code; or serving a life sentence for a capital felony, who is eligible for parole, after the first anniversary of the date of the denial and before the 10th anniversary of the date of denial.

(5) An offender will be considered for parole when eligible and when the offender meets the following criteria with regard to behavior during incarceration.

(A) Other than on initial parole eligibility, the offender must not have had a major disciplinary misconduct report in the six month period prior to the date he is reviewed for parole, which has resulted in loss of good conduct time or reduction to a classification status below that assigned during that offender's initial entry into the TDCJ-CID.

(B) Other than on initial parole eligibility, at the time he is reviewed for parole the person must be classified in the same or higher time earning classification assigned during that person's initial entry into TDCJ-CID.

(C) If any offender who has received an affirmative vote to parole and following the vote, notification is received that the offender has been reduced below initial classification status or has lost good conduct time, the parole decision will be reviewed and revoted by the parole panel that rendered the decision.

(D) A person who has been revoked and returned to custody for a violation of the conditions of release to parole or mandatory supervision will be considered for release to parole or mandatory supervision when eligible.

(E) An offender who is otherwise eligible for parole and who has charges pending alleging a felony offense committed while in the TDCJ, any facility under its supervision, or a facility under contract with the TDCJ, and for which a complaint has been filed with a magistrate of the State of Texas, will not be considered for release to parole.

(F) An offender who is otherwise eligible for release and meets the criteria for Medically Recommended Intensive Supervision (MRIS) as required by §508.146, Government Code may be considered for release on parole.

(6) Any consideration by a Board Member or Parole Commissioner of an offender's litigation activities when determining an offender's candidacy for parole is strictly prohibited. No offender will be denied the opportunity to present to the judiciary, including appellate courts, his or her allegations concerning violations of fundamental constitutional rights. Any consideration of such legal activity during the parole review, supervision or revocation process is a violation of Board policy. In the event parole is denied in violation of this section, the offender may pursue a remedy under the special review provisions of §145.17 of this title (relating to Action upon Special Review--Release Denied). In the event parole or mandatory supervision is revoked in violation of this section, the offender may pursue a remedy under the motion to reopen hearing provisions of §146.11 of this title (relating to Releasee's Motion to Reopen Hearing or Reinstate Supervision).

§145.12. Action upon Review.

A case reviewed by a parole panel for parole consideration may be:

(1) deferred for request and receipt of further information;

(2) denied a favorable parole action at this time and set for review on a future specific month and year (Set-Off).

(A) The next review date (Month/Year) for an offender [~~serving a sentence listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04, Penal Code~~] may be set at any date after the first anniversary of the date of denial and end before the fifth anniversary of the date of denial; or[~~,~~]

(B) If the offender is serving a sentence under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, the next review date (Month/Year) may begin as soon as practicable after the first anniversary of the date of denial; or

(C) If the offender [~~unless the inmate~~] is serving a sentence for an offense under Section 22.021, Penal Code, or a life sentence for a capital felony, the next review date begins [~~in which event the designated month must begin~~] after the first anniversary of the date of the denial and ends before the 10th anniversary of the date of denial. [~~The next review date for an offender serving a sentence not listed in Section 508.149(a), Government Code shall be as soon as practicable after the first anniversary of the denial;~~]

(3) denied parole and ordered serve all, but in no event shall this be utilized if the offender's projected release date is greater than five (5) years. [~~for offenders serving sentences listed in Section 508.149(a), Government Code, or serving a sentence for second or third degree felony under Section 22.04 Penal Code; or greater than one (1) year for offenders not serving sentences listed in Section 508.149(a), Government Code.~~] If the serve-all date in effect on the date of the panel decision is extended by more than 180 days, the case shall be placed in regular parole review;

(4) determined the totality of the circumstances favor the offender's release on parole, further investigation (FI) is ordered with the following available voting options; and, impose all conditions of parole or release to mandatory supervision that the parole panel is required or authorized by law to impose as a condition of parole or release to mandatory supervision;

(A) FI-1--Release the offender when eligible;

(B) FI-2 (Month/Year)--Release on a specified future date;

(C) FI-3 R (Month/Year)"--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than three (3) months from specified date. Such TDCJ program may include either CHANGES, Voyager, Pre-Release Center (PRC), or any other approved program;

(D) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);

(E) FI-5--Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program;

(F) FI-6--Transfer to a TDCJ DWI Program. Release to continuum of care program as required by paragraph (5) of this section;

(G) FI-6 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six (6) months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Pre-Release Substance Abuse Program (PRSAP), or In-Prison Therapeutic Community Program, or any other approved program;

(H) FI-7 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven (7) months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI);

(I) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9);

(J) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program com-

pletion and no earlier than 18 months from specified date. Such TDCJ program 30 shall be the Sex Offender Treatment Program (SOTP-18);

(5) any person released to parole after completing a TDCJ rehabilitation program as a prerequisite for parole, must participate in and complete any required post-release program. A parole panel shall require as a condition of release on parole or release to mandatory supervision that an offender who immediately before release is a participant in the program established under Section 501.0931, Government Code, participate as a releasee in a drug or alcohol abuse continuum of care treatment program; or

(6) any offender receiving an FI vote, as listed in paragraph (4)(A) - (J) of this section, shall be placed in a program consistent with the vote. If treatment program managers recommend a different program for an offender, a transmittal shall be forwarded to the parole panel requesting approval to place the offender in a different program.

§145.13. Action upon Review; Consecutive (Cumulative) Felony Sentencing.

(a) This section applies only to an offender sentenced to serve consecutive sentences if each sentence in the series is for an offense committed on or after September 1, 1987.

(b) A parole panel shall review for parole consideration consecutive felony sentencing cases as determined and in the sequence submitted by the TDCJ.

(c) If the case under parole consideration is a pre-final consecutive felony sentencing case, the parole panel may:

(1) defer for request and receipt of further information;

(2) vote CU/FI (Month/Year Cause Number), designate the date on which the offender would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision; or

(3) vote CU/NR (Month/Year Cause Number), deny favorable parole action. [~~and set the next review date at one year from the panel decision date . If the offender is serving an offense under Section 508.149(a), Government Code, or second or third degree under Section 22.04, Penal Code; the~~] The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one (1) calendar from the panel decision date; or

(4) vote CU/NR (Month/Year Cause Number), deny favorable parole action. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, begin as soon as practicable after the first anniversary of the denial; or

(5) [~~(4)~~] vote CU/SA (Month/Year Cause Number): [~~If the offender is serving an offense under Section 508.149(a), Government Code, or second or third degree under Section 22.04, Penal Code~~] deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision. [~~If the offender is not serving an offense under Section 508.149(a), Government Code, deny~~] Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over one (1) year from the date of the panel decision.

(d) If the case under parole consideration is the last and final in a series of consecutive felony sentencing cases, the case shall be 31 reviewed under §145.12 of this title (relating to Action upon Review).

(e) When a parole panel reviews for parole consideration a consecutive felony sentencing case, the parole panel shall indicate the Cause Number of the consecutive felony sentencing case it is considering.

§145.15. Action upon Review; Extraordinary Vote (SB 45).

(a) This section applies to any offender convicted of or serving a sentence for a capital felony, other than a life sentence, an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who is required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible for parole review. All members of the Board shall vote on the release of an eligible offender. At least two-thirds of the members must vote favorably for the offender to be released to parole. Members of the Board shall not vote until they receive and review a copy of a written report from the department on the probability of the offender committing an offense after being released.

(1) Upon review, use of the full range of voting options is not conducive to determining whether two-thirds of the Board considers the offender ready for release to parole.

(2) If it is determined circumstances favor the offender's release to parole the Board has the following voting options available:

(A) FI-1--Release the offender when eligible;

(B) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);

(C) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9); or

(D) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than eighteen months from the specified date. Such TDCJ program may include the Sex Offender Treatment Program (SOTP-18. In no event shall the specified date be set more than three (3) years from the current panel decision date.

(3) If it is determined that circumstances do not support a favorable action upon review, the following options are available:

(A) NR (Month/Year)--Deny release and set the next review date for 36 or 60 months following the panel decision date; or

(B) SA--The offender's minimum or maximum expiration date is less than 60 months away. The offender will continue to serve their sentence until that date.

(b) If the offender is sentenced to serve consecutive sentences and each sentence in the series is for an offense committed on or after September 1, 1987, the following voting options are available to the Board panel:

(1) CU/FI (Month/Year-Cause Number)--A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence;

(2) CU/NR (Month/Year-Cause Number)-- Deny release and set the next review date for 36 or 60 months following the panel decision date; or

(3) CU/SA (Month/Year-Cause Number)-- Deny release and order serve-all if the offender is within 60 months of their maximum expiration date.

(c) Some offenders are eligible for consideration for release to Discretionary Mandatory Supervision if the sentence is for an offense

committed on or after September 1, 1996. Prior to the offender reaching the projected release date, the voting options are the same as those listed in subsections (a) and (b) of this section. If the TDCJ-CID determines that release of the offender will occur because the offender will reach the projected release date, the case shall be referred to a three-member parole panel within 30 days of the offender's projected release date for consideration for release to mandatory supervision using the following options:

(1) RMS--Release to mandatory supervision; or

(2) DMS (Month/Year)--Deny release to mandatory supervision and set for review on a future specific month and year. The next mandatory supervision review date shall be set one (1) year from the panel decision date.

(d) The [~~Upon review of any eligible offender who qualifies for release to Medically Recommended Intensive Supervision (MRIS), the~~] MRIS panel shall review identified offender's cases that meet MRIS criteria established by statute and defined by TCOOMMI [~~initially vote to either recommend or deny MRIS consideration. The MRIS panel shall base this decision on the offender's medical condition and medical evaluation, and shall determine whether the offender constitutes a threat to public safety~~].

(1) The [~~If the~~] MRIS panel shall determine whether [~~determines~~] the identified offender constitutes [~~does constitute~~] a threat to public safety[~~, no further voting is required~~].

(2) The MRIS panel shall consider the following factors when making their determination:

(A) Criminal History.

(B) Disciplinary, behavioral, rehabilitative, and medical compliance.

(C) Victim/Trial Official information.

(D) Nature and onset of medical condition.

(E) Required medical treatment and care.

(F) Individual diagnosis to include likelihood of recovery.

(G) Any other relevant information.

(3) [~~(2)~~] The MRS panel shall use one of the following voting options: [~~If the MRIS panel determines the offender does not constitute a threat to public safety, the case shall be sent to the full Board, which shall determine whether to approve or deny the offender's release to parole. The following voting options are available to the Board:~~]

(A) Approve MRIS--The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel [~~Board~~] shall vote F1-1 and impose special condition "O.35." This condition specifies that the [~~"O" - "The~~] offender shall comply with the terms and conditions of the MRIS program and abide by the [~~a Texas Correctional Office for Offenders with Mental or Medical Impairments~~] (TCOOMMI)-approved release plan. At any time this condition is in effect, an offender shall remain under the care of a physician and in a medically suitable placement"; ~~the Board shall provide appropriate reasons for the decision to approve MRIS;~~] or

(B) Deny MRIS--The MRIS panel [~~Board~~] shall provide appropriate reasons for the decision to deny MRIS.

(4) [~~(3)~~] The decision to approve release to MRIS for an identified offender remains in effect until specifically withdrawn by a MRIS panel or the identified offender's status is revoked and returned to TDCJ-CID [~~the Board~~].

(5) When TCOOMMI and CMHC determine the MRIS offender's medical condition has improved such that the offender is no longer MRIS eligible, and the original parole eligibility date (PED) has been met, the MRIS panel may:

(A) withdraw the MRIS special condition, or

(B) continue the MRIS condition in effect; or

(C) impose any other condition the MRIS panel deems appropriate.

(6) If the MRIS offender violates their conditions of release that result in the issuance of a pre-revocation warrant, the MRIS offender shall adhere to the established pre-revocation process. However, the final determination of the MRIS offender shall be addressed by the MRIS panel.

(7) The MRIS panel shall endeavor to complete the voting of each terminally ill offender referral within 10 business days of receipt from TCOOMMI and all other referrals within 20 business days.

(e) If a request for a special review meets the criteria set forth in §145.17(f) of this title (relating to Action upon Special Review--Release Denied), the offender's case shall be sent to the special review panel.

(1) The special review panel may take action as set forth in §145.17(i) of this title.

(2) When the special review panel decides the offender's case warrants a special review, the case shall be re-voted by the full Board. The Presiding Officer shall determine the order of the voting panel. Voting options are the same as those in subsections (a) - (c) of this section.

§145.18. Action upon Review; Extraordinary Vote (HB 1914).

(a) This section applies to any offender convicted of or serving a sentence for a capital felony, other than a life sentence, who is eligible for parole, or convicted of or serving sentence for an offense under Section 22.021, Penal Code. All members of the Board shall vote on the release of an eligible offender. At least two-thirds of the members must vote favorably for the offender to be released to parole. Members of the Board shall not vote until they receive and review a copy of a written report from the TDCJ on the probability of the offender committing an offense after being released.

(1) Upon review, use of the full range of voting options is not conducive to determining whether two-thirds of the Board considers the offender ready for release to parole.

(2) If it is determined circumstances favor the offender's release to parole the Board has the following voting options available:

(A) FI-1--Release the offender when eligible;

(B) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP);

(C) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9); or

(D) FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than eighteen months from the specified date. Such TDCJ program may include the Sex Offender Treatment Program (SOTP-18. In no event shall the specified date be set more than three (3) years from the current panel decision date.

(3) If it is determined that circumstances do not support a favorable action upon review, the following options are available:

(A) NR (Month/Year)--Deny release and set the next review date for 36 or 60, 84 or 120 months following the panel decision date; or

(B) SA--The offender's minimum or maximum expiration date is less than 120 months away. The offender will continue to serve their sentence until that date.

(b) If the offender is sentenced to serve consecutive sentences and each sentence in the series is for an offense committed on or after September 1, 1987, the following voting options are available to the Board panel:

(1) CU/FI (Month/Year-Cause Number)--A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence;

(2) CU/NR (Month/Year-Cause Number)--Deny release and set the next review date for 36 or 60 months following the panel decision date; or

(3) CU/SA (Month/Year-Cause Number)--Deny release and order serve-all if the offender is within 60 months of their maximum expiration date.

(c) Some offenders are eligible for consideration for release to Discretionary Mandatory Supervision if the sentence is for an offense committed on or after September 1, 1996. Prior to the offender reaching the projected release date, the voting options are the same as those listed in subsections (a) and (b) of this section. If the TDCJ-CID determines that release of the offender will occur because the offender will reach the projected release date, the case shall be referred to a three-member parole panel within 30 days of the offender's projected release date for consideration for release to mandatory supervision using the following options:

(1) RMS--Release to mandatory supervision; or

(2) DMS (Month/Year)--Deny release to mandatory supervision and set for review on a future specific month and year. The next mandatory supervision review date shall be set one (1) year from the panel decision date.

(d) [~~Upon review of any eligible offender who qualifies for release to Medically Recommended Intensive Supervision (MRIS), the~~] MRIS panel shall review [~~initially vote to either recommend or deny MRIS consideration~~]. Identified offender's cases that meet MRIS criteria established by statute and defined by TCOOMMI. [~~The MRIS panel shall base this decision on the offender's medical condition and medical evaluation, and shall determine whether the offender constitutes a threat to public safety.~~]

(1) The [~~If the~~] MRIS panel shall determine whether [~~determines~~] the identified offender constitutes [~~does constitute~~] a threat to public safety[~~, no further voting is required~~].

(2) The MRIS panel shall consider the following factors when making their determination:

(A) Criminal History

(B) Disciplinary, behavioral, rehabilitative, and medical compliance

(C) Victim/Trial Official information

(D) Nature and onset of medical condition

(E) Required medical treatment and care

(F) Individual diagnosis to include likelihood of recovery

(G) Any other relevant information

(3) [~~(2)~~] The MRS panel shall use one of the following voting options: [~~If the MRIS panel determines the offender does not constitute a threat to public safety, the case shall be sent to the full Board, which shall determine whether to approve or deny the offender's release to parole. The following voting options are available to the Board:~~]

(A) Approve MRIS--The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel [~~Board~~] shall vote F1-1 and impose special condition "O.35 [~~O~~]". This condition specifies that the [~~- "The~~] offender shall comply with the terms and conditions of the MRIS program and abide by the [~~a Texas Correctional Office for Offenders with Mental or Medical Impairments (~~]TCOOMMI[~~)~~]-approved release plan. At any time this condition is in effect, an offender shall remain under the care of a physician and in a medically suitable placement; [~~"; the Board shall provide appropriate reasons for the decision to approve MRIS;~~] or

(B) Deny MRIS--The MRIS panel [~~Board~~] shall provide appropriate reasons for the decision to deny MRIS.

(4) [~~(3)~~] The decision to approve release to MRIS for an identified offender remains in effect until specifically withdrawn by a MRIS panel or the identified offender's status is revoked and returned to TDCJ-CID [~~the Board~~].

(5) When TCOOMMI and CMHC determine the MRIS offender's medical condition has improved such that the offender is no longer MRIS eligible, and the original parole eligibility date (PED) has been met, the MRIS panel may:

(A) withdraw the MRIS special condition, or

(B) continue the MRIS condition in effect; or

(C) impose any other condition the MRIS panel deems appropriate.

(6) If the MRIS offender violates their conditions of release that result in the issuance of a pre-revocation warrant, the MRIS offender shall adhere to the established pre-revocation process. However, the final determination of the MRIS offender shall be addressed by the MRIS panel.

(7) The MRIS panel shall endeavor to complete the voting of each terminally ill offender referral within 10 business days of receipt from TCOOMMI and all other referrals within 20 business days.

(e) If a request for a special review meets the criteria set forth in §145.17(f) of this title (relating to Action upon Special Review--Release Denied), the offender's case shall be sent to the special review panel.

(1) The special review panel may take action as set forth in §145.17(i) of this title.

(2) When the special review panel decides the offender's case warrants a special review, the case shall be re-voted by the full Board. The Presiding Officer shall determine the order of the voting panel. Voting options are the same as those in subsections (a) - (c) of this section.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502960
Bettie Wells
General Counsel
Texas Board of Pardons and Paroles
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For further information, please call: (512) 406-5388

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PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §651.222

The Texas Forensic Science Commission (Commission) proposes amendments to 37 Texas Administrative Code Chapter §651.222, Voluntary Forensic Analyst and Technician Licensing Requirements 1) to permit latent print analysts working in unaccredited laboratories to fulfill the International Association for Identification certification requirement for licensure through successful completion of a competency exam administered by the Texas Division of the International Association for Identification or proctor approved by the Commission; and 2) to qualify crime scene reconstruction analysts with a high school diploma or equivalent degree for licensure.

Background and Justification. The proposed amendments qualify additional latent print analysts for voluntary licensure by permitting latent print analysts working in unaccredited laboratories to take a competency exam administered by the Texas Division of the International Association for Identification or proctor approved by the Commission in lieu of a required International Association for Identification certification exam. The required certification exam is expensive and often difficult to achieve for personnel working in unaccredited crime laboratory settings, which are typically smaller law enforcement agencies without the funding necessary to sponsor candidates for supplemental trainings or certification exams. With regard to crime scene reconstruction analysts, many crime scene personnel have significant military and law enforcement experience that should qualify them for licensure in lieu of an associate's or other advanced degree. Allowing candidates for crime scene reconstruction analyst licensure who have achieved a high school diploma or equivalent degree will permit these types of candidates to qualify for voluntary licensure by the Commission.

Fiscal Impact on State and Local Government. Leigh M. Tomlin, Associate General Counsel of the Commission, has determined that for each year of the first five years the new rule is in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. There is no estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the proposed rule amendments.

Local Employment Impact Statement. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Probable Economic Costs to Persons Required to Comply with Proposal. The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code §2001.0045. The licenses are voluntary licenses.

Public Benefit. Ms. Tomlin has also determined that for each year of the first five years the new rule is in effect, the anticipated public benefit is expanded eligibility for voluntary forensic analysts working in crime scene and latent print disciplines to participate in the State's regulatory license program for these disciplines. Under the current rules, latent print analyst license candidates who work in an unaccredited crime laboratory setting must take and pass the International Association for Identification's certification exam. The rule changes provide an alternative, more affordable path for these candidates to achieve licensure. With regard to the changes related to crime scene reconstruction analysts, the rule changes appropriately recognize the military and law enforcement backgrounds from candidates in lieu of the requirement for an associate's or other more advanced degree, creating an alternative path for these candidates to achieve licensure.

Fiscal Impact on Small and Micro-businesses and Rural Communities. There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Assessment. Ms. Tomlin has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Government Growth Impact Statement. Ms. Tomlin has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact. Pursuant to the analysis required by Government Code 2001.221(b): (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rule does not increase or decrease future legislative appropriations to the agency; (4) the proposed rule changes do not require any fees; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand, limit, or repeal an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the proposed rule has no effect on the state's economy.

Environmental Rule Analysis. The Commission has determined that the proposed rules are not brought with specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Commission asserts that the proposed rules are not a "major environmental rule," as defined in Government Code §2001.0225. As a result, the Commission asserts the preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

Request for Public Comment. The Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Tomlin, 1700 North Congress Av-

enue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by October 10, 2025 to be considered by the Commission.

Statutory Authority. The rule amendments are proposed under the general rulemaking authority provided in Code of Criminal Procedure, Article 38.01 §3-a and its authority to license forensic analysts under §4-a(b).

Cross reference to statute. The proposal affects Tex. Code Crim. Proc. art. 38.01.

§651.222. Voluntary Forensic Analyst and Technician Licensing Requirements.

(a) Issuance. The Commission may issue an individual's forensic analyst or technician license for forensic examinations or tests not subject to accreditation under this section.

(b) Voluntary. Licensure under this section is voluntary and is not a prerequisite for practice in any of the forensic disciplines listed in this section.

(c) The following forensic disciplines are eligible for a forensic analyst or forensic technician license under this section:

(1) forensic anthropology;

(2) document examination, including document authentication, physical comparison, qualitative determination, and recovery;

(3) latent print examination, including the forensic examination of friction ridge detail from the hands and feet;

(4) latent print processing, including identifying and preserving latent prints from items obtained at a crime scene, by utilizing appropriate visual, physical, and/or chemical techniques with sequential processing to develop latent, patent, and/or plastic prints from a substrate;

(5) digital/multimedia evidence (limited to computer, mobile, vehicle, call detail records (*i.e.,* phone carrier record comparisons to mobile device), and location detail records); and

(6) crime scene, with the following sub-disciplines:

(A) crime scene processing technician, including crime scene documentation (scene notes, photography, sketching, laser scanning), and evidence identification, collection, preservation, and submission;

(B) crime scene investigation analyst, including crime scene processing activities as well as the application of analytical techniques used for evidence triage, such as chemical and presumptive testing. It may also include the issuance of a report on crime scene documentation and/or crime scene processing;

(C) crime scene reconstruction analyst, including crime scene processing activities, crime scene investigation activities, and any forensic activities requiring the application of the scientific method to evaluate information regarding a crime scene from all reasonably available sources such as scene documentation, investigative reports, physical evidence, laboratory reports, autopsy documentation, photographs, video, and witness statements;

(D) crime scene reconstruction analyst, with specific recognition in bloodstain pattern analysis, including all crime scene reconstruction activities described in subparagraph (C) of this paragraph; and

(E) crime scene reconstruction analyst, with specific recognition in shooting incident reconstruction, including crime scene reconstruction activities described in subparagraph (C) of this paragraph.

(d) Application. Before being issued a forensic analyst license, an applicant shall complete and submit to the Commission a current forensic analyst license application and provide documentation that he or she has satisfied all applicable requirements set forth under this section.

(e) Minimum Education Requirements.

(1) Document Examination Analyst. An applicant for a forensic analyst license in document examination must have a baccalaureate or advanced degree from an accredited university.

(2) Forensic Anthropologist. An applicant for a forensic analyst license in forensic anthropology must be certified by the American Board of Forensic Anthropology (ABFA), including fulfillment of any minimum education requirements required to comply with and maintain ABFA certification at the time of the candidate's application for a license.

(3) Latent Print Analyst. An applicant for a forensic analyst license in latent print examination must have:

(A) A baccalaureate or advanced degree from an accredited university;

(B) 3 years of experience in latent print examination with an Associates of Arts or Associates of Science; or

(C) 4 years of experience in latent print examination and 176 hours of training that includes 16 hours of testimonial training (with only a maximum of 80 conference hours accepted as training hours).

(4) Latent Print Processing Technician. An applicant for a forensic technician license in latent print processing must have a minimum of a high school diploma or equivalent degree.

(5) Digital/Multimedia Evidence Analyst. An applicant for a forensic analyst license in digital/multimedia evidence must have:

(A) a baccalaureate or advanced degree from an accredited university;

(B) a non-law enforcement or non-military background without a baccalaureate degree, demonstrating equivalent digital skill set through Certified Forensic Computer Examiner (CFCE), Global Information Assurance Certification Certified Forensic Examination (GCFE), or Global Information Assurance Certification Certified Forensic Analyst (GCFA), or equivalent non-vendor certification examination(s) with competency test(s); or

(C) law enforcement or military experience equivalent demonstrated through forensic training through one of the following organizations: SysAdmin, Audit, Network, and Security (SANS), International Association for Computer Investigative Specialists (IACIS), National White Collar Crime Center (NW3C), Law Enforcement & Emergency Services Video Association International, Inc. (LEVA), U.S. Military, Computer Analysis Response Team (CART) (FBI Training), Seized Computer Evidence Recovery Specialist (SCERS), or U.S. Secret Service.

(6) Crime Scene Reconstruction Analyst. An applicant for a forensic analyst license in crime scene reconstruction, crime scene reconstruction with specific recognition in bloodstain pattern analysis, or crime scene reconstruction with specific recognition in shooting incident reconstruction must have a minimum of a high school diploma [~~an associate's degree~~] or equivalent degree.

(7) Crime Scene Investigation Analyst. An applicant for a forensic analyst license limited to the crime scene investigation category of licensure must have a minimum of a high school diploma or equivalent degree.

(8) Crime Scene Processing Technician. An applicant for a forensic technician license limited to the crime scene processing technician category of licensure must have a minimum of a high school diploma or equivalent degree.

(9) Foreign/Non-U.S. degrees. The Commission shall recognize equivalent foreign, non-U.S. baccalaureate or advanced degrees. The Commission reserves the right to charge licensees a reasonable fee for credential evaluation services to assess how a particular foreign degree compares to a similar degree in the United States. The Commission may accept a previously obtained credential evaluation report from an applicant or licensee in fulfillment of the degree comparison assessment.

(f) Specific Coursework Requirements and Certification Requirements.

(1) General Requirement for Statistics. With the exception of the categories of licensure specifically exempt in this subsection, an applicant for any forensic analyst license under this section must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(2) Forensic Discipline-Specific Coursework Requirements.

(A) Document Examination Analyst. An applicant for a forensic analyst license in document examination must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission. No other specific college-level coursework is required.

(B) Forensic Anthropologist. An applicant for a forensic analyst license in forensic anthropology must be certified by the American Board of Forensic Anthropology (ABFA), including fulfillment of any specific coursework requirements necessary to comply with and maintain ABFA certification at the time of the candidate's application for a license.

(C) Latent Print Analyst.

(i) An applicant for a forensic analyst license in latent print examination who qualifies for a latent print analyst license based on the minimum education requirements set forth in subsection (d)(3)(A) or (B) of this section must have a minimum of 24 semester-credit hours or equivalent in science, technology, engineering, or mathematics (STEM) related coursework.

(ii) All applicants for a forensic analyst license in latent print examination must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission.

(iii) IAI Certification Requirement for Unaccredited Laboratory. All licensed latent print examination analysts and applicants who are not employed by a laboratory accredited by the Commission must [~~are~~](1) [~~required to~~] be certified by the International Association for Identification (IAI) under the IAI's Latent Print Certification program and are required to provide proof of certification upon request and[~~. Licensees are required to~~] notify the Commission of any change in the status of their IAI certification within ten (10) business days of any changes; or (2) successfully complete a competency exam administered by the Texas Division of the International Association for Identification or a proctor approved by the Commission.

(D) Digital/Multimedia Evidence Analyst. An applicant for a forensic analyst license in digital/multimedia evidence must have a three-semester credit hour (or equivalent) college-level statistics course from an accredited university or a program approved by the Commission. No other specific college-level coursework is required.

(E) Crime Scene Processing Technician. An applicant for a forensic technician license in crime scene processing must successfully complete a Texas Commission on Law Enforcement Course Number 2106 titled Intermediate Crime Scene Search taught by a Texas Commission on Law Enforcement-certified instructor or subject matter expert approved by the Commission.

(F) Crime Scene Investigation Analyst. An applicant for a forensic analyst license in crime scene investigation must successfully complete a Texas Commission on Law Enforcement Course Number 2106 titled Intermediate Crime Scene Search taught by a Texas Commission on Law Enforcement-certified instructor or subject matter expert approved by the Commission and must complete a minimum of 240 hours of forensic-related training courses which may include in-house mentorship training.

(G) Crime Scene Reconstruction Analyst. An applicant for a forensic analyst license in crime scene reconstruction must have twelve-semester credit hours of college-level courses or equivalent coursework approved by the Commission that includes fluid dynamics, math, and physics; a 40-hour crime scene reconstruction course approved by the Commission; 440 additional hours of forensic-related courses approved by the Commission which may include documented in-house mentorship programs; and have successfully completed a Texas Commission on Law Enforcement Course Number 2106 titled Intermediate Crime Scene Search taught by a Texas Commission on Law Enforcement-certified instructor or subject matter expert approved by the Commission.

(H) Crime Scene Reconstruction Analyst, with specific recognition in bloodstain pattern analysis. An applicant for a forensic analyst license in crime scene reconstruction, with specific recognition in bloodstain pattern analysis, must have a 40-hour crime scene reconstruction course approved by the commission, two 40-hour advanced courses taught by two different instructors in blood pattern analysis with syllabi accepted by the International Association of Bloodstain Pattern Analysts (IABPA) or the International Association for Identification (IAI) for certification, a 40-hour fluid dynamics course approved by the Commission, a 40-hour math and physics course approved by the Commission, twenty-four hours of instruction involving presentation and preparation of demonstrative evidence such as 3D modeling, courtroom demonstratives, 440 additional hours of forensic-related courses approved by the Commission which may include documented in-house mentorship programs, and have successfully completed a Texas Commission on Law Enforcement Course Number 2106 titled Intermediate Crime Scene Search taught by a Texas Commission on Law Enforcement-certified instructor or subject matter expert approved by the Commission.

(I) Crime Scene Reconstruction Analyst, with specific recognition in shooting incident reconstruction and crime scene reconstruction. An application for a forensic analyst license in crime scene reconstruction, with specific recognition in shooting incident reconstruction must have a 40-hour crime scene reconstruction course approved by the commission, two 40-hour shooting incident reconstruction courses taught by two different instructors in shooting incident reconstruction with syllabi accepted by the International Association for Identification (IAI), the Association of Firearm and Toolmark Examiners (AFTE), or the Association for Crime Scene Reconstruction (ACSR) for certification and approved by the Commission, twenty-four hours of instruction involving presentation and prepara-

tion of demonstrative evidence such as 3D modeling and courtroom demonstratives, 440 additional hours of forensic-related courses approved by the Commission which may include documented in-house mentorship programs, and have successfully completed a Texas Commission on Law Enforcement Course Number 2106 titled Intermediate Crime Scene Search taught by a Texas Commission on Law Enforcement-certified instructor or subject matter expert approved by the Commission.

(3) Exemptions from Specific Coursework Requirements.

(A) Previously Licensed Document Examination Analyst Exemption. An applicant for a voluntary forensic analyst license previously licensed by the Commission when licensure was mandatory for the discipline is exempt from any specific coursework requirements in this subsection.

(B) An applicant for the technician license category of any forensic discipline set forth in this subchapter is not required to fulfill any specific college-level coursework requirements, including the three-semester credit hour (or equivalent) college-level statistics course component for licensure.

(C) An applicant for a forensic analyst license limited to the crime scene investigation analyst category of licensure is not required to fulfill the three-semester credit hour (or equivalent) college-level statistics course component for licensure.

(g) Work Experience.

(1) Crime Scene Reconstruction Analyst. An applicant for any forensic analyst license in crime scene reconstruction must have a minimum of five years' experience working in crime scene settings.

(2) Crime Scene Investigation Analyst. An applicant for a forensic analyst license in crime scene investigation must have a minimum of one year of experience working in crime scene settings.

(h) General Forensic Analyst Licensing Exam Requirement.

(1) Exam Requirement. An applicant for a forensic analyst license under this section must pass the General Forensic Analyst Licensing Exam administered by the Commission.

(A) An applicant is required to take and pass the General Forensic Analyst Licensing Exam one time.

(B) An applicant may take the General Forensic Analyst Licensing Exam no more than three times. If an applicant fails the General Forensic Analyst Licensing Exam three times, the applicant has thirty (30) days from the date the applicant receives notice of the failure to request special dispensation from the Commission as described in subparagraph (C) of this paragraph. Where special dispensation is granted, the applicant has 90 days from the date he or she receives notice the request for exam is granted to successfully complete the exam requirement. However, for good cause shown, the Commission or its Designee at its discretion may waive this limitation.

(C) Requests for Exam. If an applicant fails the General Forensic Analyst Licensing Exam three times, the applicant must request in writing special dispensation from the Commission to take the exam more than three times. Applicants may submit a letter of support from their employing agency's director or licensing representative and any other supporting documentation supplemental to the written request.

(D) If an applicant sits for the General Forensic Analyst Licensing Exam more than three times, the applicant must pay a $50 exam fee each additional time the applicant sits for the exam beyond the three initial attempts.

(E) Modified General Forensic Analyst Licensing Exam. Forensic Technicians in any disciplines set forth in this subchapter, including latent print processing technicians, crime scene processing technicians and crime scene investigation analysts, may fulfill the General Forensic Analyst Licensing Exam requirement by taking a modified exam administered by the Commission.

(2) Credit for Pilot Exam. If an individual passes a Pilot General Forensic Analyst Licensing Exam, regardless of his or her eligibility status for a voluntary or mandatory Forensic Analyst License at the time the exam is taken, the candidate has fulfilled the General Forensic Analyst Licensing Exam Requirement of this subsection.

(i) Continuing Education Requirements. All continuing education requirements outlined in §651.208 (g)-(i) of this subchapter (relating to Forensic Analyst and Forensic Technician License Renewal) apply to this section.

(j) Proficiency Monitoring Requirement.

(1) Requirement for Applicants Employed by an Accredited Laboratory. An applicant who is employed by an accredited laboratory must demonstrate the applicant participates in the laboratory's process for intra-agency comparison, interagency comparison, proficiency testing, or observation-based performance monitoring requirements in compliance with and on the timeline set forth by the laboratory's accrediting body's proficiency monitoring requirements as applicable to the Forensic Analyst's or Forensic Technician's specific forensic discipline and job duties.

(2) Requirement for Applicants Not Employed at an Accredited Laboratory or at an Accredited Laboratory in an Unaccredited Forensic Discipline. An applicant who is employed by an entity other than an accredited laboratory or performs a forensic examination or test at an accredited laboratory in a forensic discipline not covered by the scope of the laboratory's accreditation must demonstrate the applicant participates in the laboratory or employing entity's process for intra-agency comparison, interagency comparison, proficiency testing, or observation-based performance monitoring requirements in compliance with and on the timeline set forth by the laboratory or employing entity's Commission-approved process for proficiency monitoring as applicable to the Forensic Analyst's or Forensic Technician's specific forensic discipline and job duties.

(3) A signed certification by the laboratory or entity's authorized representative that the applicant has satisfied the applicable proficiency monitoring requirements, including any intra-agency comparison, inter-laboratory comparisons, proficiency testing, or observation-based performance monitoring requirements in paragraph (1) or (2) of this subsection as of the date of the analyst's application must be provided on the Proficiency Monitoring Certification form provided by the Commission. The licensee's authorized representative must designate the specific forensic discipline in which the Forensic Analyst or Forensic Technician actively performs forensic casework or is currently authorized to perform supervised or independent casework.

(4) Applicants employed by an entity other than an accredited laboratory or performing forensic examinations or tests at an accredited laboratory in a discipline not covered by the scope of the laboratory or employing entity's accreditation must include written proof of the Forensic Science Commission's approval described in (5) of this subsection with the Proficiency Monitoring Certification form required in (3) of this subsection. The applicant must include written documentation of performance in conformance with expected consensus results for the laboratory or employing entity's Commission-approved activities or exercise(s) as applicable to the applicant's specific forensic discipline and job duties in compliance with and on the timeline set forth

by the laboratory or employing entity's Commission-approved process for proficiency monitoring.

(5) Applicants employed by an entity other than an accredited laboratory or performing forensic examinations or tests at an accredited laboratory in a discipline not covered by the scope of the laboratory or employing entity's accreditation seeking approval of proficiency monitoring activities or exercise(s) must seek prior approval of the activities or exercise(s) from the Commission.

(6) Special Proficiency Testing Requirements for Latent Print Analysts and Latent Print Processing Technicians.

(A) Where available and appropriate for the job function(s) being tested, proficiency tests shall be obtained from an external source through participation in a proficiency testing program offered by a provider accredited to the ISO/IEC 17043 international standard.

(B) Where not available or not appropriate for the job function(s) being tested, proficiency tests may be obtained from an external source through participation in an interagency comparison or developed internally by the employing laboratory or entity through participation in an interagency comparison or intra-agency comparison.

(C) All latent print examiner and latent print processing technician proficiency tests selected shall be developed and validated in accordance with the requirements set forth in Sections 4.2 and 4.3 of the Organization of Scientific Area Committees for Forensic Science (OSAC) 2022-S-0012 Friction Ridge Subcommittee's Standard for Proficiency Testing in Friction Ridge Examination.

(7) Special Proficiency Testing Requirements for Crime Scene Processing Technicians, Crime Scene Investigation Analysts, and Crime Scene Reconstruction Analysts.

(A) Where available and appropriate for the job function(s) being tested, proficiency tests shall be obtained from an external source through participation in a proficiency testing program offered by a provider accredited to the ISO/IEC 17043 international standard.

(B) Where not available or not appropriate for the job function(s) being tested, proficiency tests may be obtained from an external source through participation in an interagency comparison or developed internally by the employing laboratory or entity through participation in an interagency comparison or intra-agency comparison.

(k) Employing Laboratory or Agency Quality Requirement for Forensic Analysts. Applicants for a forensic analyst license under this section must be employed by a laboratory or agency that can demonstrate, regardless of Commission accreditation status, compliance with specific standards as applicable to the applicant's forensic discipline as published on the Commission's website and updated January 15 of each calendar year.

(l) License Term and Fee.

(1) A Forensic Analyst license issued under this section shall expire two years from the date the applicant is granted a license.

(2) Application Fee. A Forensic Analyst or Forensic Technician license applicant or current licensee under this section shall pay the following fee(s) as applicable:

(A) Initial Application fee of $220 for Analysts and $150 for Technicians;

(B) Biennial renewal fee of $200 for Analysts and $130 for Technicians;

(C) License Reinstatement fee of $220; or

(D) Special Exam Fee of $50 for General Forensic Analyst Licensing Exam, required only if testing beyond the three initial attempts.

(m) Forensic Analyst License Renewal. Applicants for renewal of a Forensic Analyst License must comply with §651.208 of this subchapter (Forensic Analyst and Forensic Technician License Renewal).

(n) Forensic Analyst License Expiration and Reinstatement. A Forensic Analyst must comply with §651.209 of this subchapter (Forensic Analyst and Forensic Technician License Expiration and Reinstatement) of this subchapter.

(o) Procedure for Denial of Initial Application or Renewal Application and Reconsideration.

(1) Application Review. The Commission Director or Designee must review each initial application or renewal application and determine whether the applicant meets the qualifications and requirements set forth in this subchapter. If a person who has applied for a forensic analyst license under this section does not meet the qualifications or requirements set forth in this subchapter and has submitted a complete application, the Director or Designee must consult with members of the Licensing Advisory Committee before denying the application.

(2) Denial of Application. The Commission, through its Director or Designee, may deny an initial or renewal application if the applicant fails to meet any of the qualifications or requirements set forth in this subchapter.

(3) Notice of Denial. The Commission, through its Director or Designee, shall provide the applicant a written statement of the reason(s) for denial of the initial or renewal application.

(4) Request for Reconsideration. Within twenty (20) days of the date of the notice that the Commission has denied the application, the applicant may request that the Commission reconsider the denial. The request must be in writing, identify each point or matter about which reconsideration is requested, and set forth the grounds for the request for reconsideration.

(5) Reconsideration Procedure. The Commission must consider a request for reconsideration at its next meeting where the applicant may appear and present testimony.

(6) Commission Action on Request. After reconsidering its decision, the Commission may either affirm or reverse its original decision.

(7) Final Decision. The Commission, through its Director or Designee, must notify the applicant in writing of its decision on reconsideration within fifteen (15) business days of the date of its meeting where the final decision was rendered

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502958
Leigh Tomlin
Associate General Counsel
Texas Forensic Science Commission
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 936-0661

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 361. STATUTORY AUTHORITY

40 TAC §361.1

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §361.1. Statutory Authority. The amendments cleanup the section.

The amendments to the section concern cleanups, including to replace, with regard to the location of the Board's practice act, an outdated reference to the Texas Civil Statutes with one to the Texas Occupations Code, the latter which is the current location of such.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and uniformity of the board rules.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rule would be in effect:

(1) the rule will not create or eliminate a government program;

(2) the rule will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create new regulations and will not repeal existing regulations;

(6) the rule will not expand certain existing regulations and will not limit certain existing regulations;

(7) the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the rule will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

Mr. Harper has determined that the rule is not subject to Texas Government Code §2001.0045 as the rule does not impose a cost on regulated persons. In addition, the rule does not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454.

CROSS REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these amendments.

§361.1. Statutory Authority.

These rules are promulgated under the authority of the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454 of the Texas Occupations Code [~~Texas Civil Statutes, Article 8851~~]. These rules do not restate all the provisions of the Occupational Therapy Practice Act. The Board [~~board~~] makes decisions in the discharge of its statutory authority without regard to any person's race, creed, color, religion, sex, national origin, disability, or age.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502961
Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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CHAPTER 364. REQUIREMENTS FOR LICENSURE

40 TAC §§364.1 - 364.5

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §364.1. Requirements for Licensure, §364.2. Initial License by Examination, §364.3. Temporary License, §364.4. Licensure by Endorsement, and §364.5. Recognition of Out-of-State License of Military Service Members and Military Spouses. The amendments revise the sections, including to cleanup and clarify the sections, make changes to enhance the alignment of the sections with the Board's new licensing system, revise requirements, in general, and amend the sections pursuant to House Bill 5629 and Senate Bill 1818 of the 89th Regular Legislative Session and the changes effective September 1, 2025, that are made by such to Texas Occupations Code Chapter 55.

The amendments to the sections include cleanups and clarifications. For example, clarifying language is added with regard to applications that such are prescribed by the Board and cleanups include replacing "Examination" with "Exam" in §364.3, with regard to a form received from the National Board for Certification in Occupational Therapy (NBCOT).

Clarifications to the sections include a revision to §364.3(d) as well. The current §364.3(c)(3) already requires that to be issued a temporary license, an applicant must submit the form noted above, which must be sent directly to the Board by NBCOT and which reflects the eligibility window in which the applicant will take the examination. §364.3(d) also currently stipulates, correspondingly, that if the applicant fails the examination, fails to take the examination during the eligibility window as stated on the Confirmation of Examination Registration and Eligibility to Examine form from NBCOT, or fails to have the score reported, the temporary license is void and must be returned to the Board. The amendments will add to such the phrase "received pursuant to subsection (c)(3) of this section," with regard to the noted form. Such a clarification will add to the provision further emphasis that failure to take the examination during the eligibility window as stated on the form that was received prior to and as a condition for the issuance of the license will render the license void.

A clarification is also made to add language to §364.1(d)(1) to align such better with Texas Occupations Code §55.007, which concerns the crediting, with regard to applicants with military experience, of verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency. §55.007 includes that individuals with a restricted license or who have an unacceptable criminal history according to the law applicable to the state agency are not eligible for such a service and amendments to §364.1(d)(1) add related language.

The amendments, in addition, include revisions to better align the sections with the Board's new licensing system and facilitate a more efficient licensing process, for example, by requiring that those applying for a temporary license submit an application for such. This will assist the Board in obtaining necessary application materials and information and ensure that the section requires an application as, due to system components in the new system, the application for temporary licensure could no longer be embedded in the application for initial licensure.

A general change to the requirements in the sections pertains to removing the item in §364.1 concerning continuing an expired initial-licensing application for an additional year by submitting the application fee. The change to remove this process is made to increase the consistency in the rules and align such with the Board's other licensing applications, which expire after one year, after which time, a new, up-to-date application must be submitted. The change will ensure that applicants meet current application requirements and that the information and required items submitted for such are accurate and not outdated.

Changes are also made pursuant to the 89th Legislative Session and House Bill 5629 and Senate Bill 1818, which amend Texas Occupations Code Chapter 55. The changes, which address fee waivers, expedited services, complaint recording and publishing information, and licensure requirements for military service members, military veterans, and military spouses, and the recognition of an out-of-state license for a military service member and military spouse, will align the sections and requirements with the recent legislation.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and consistency of the rules, efficiency in the licensure process, and conformance of board rules to related statutes in Texas Occupations Code Chapter 55.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rules would be in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase in fees paid to the agency and will require a decrease in licensing fees paid to the agency by certain military service members, military service members, and military spouses;

(5) the rules will create new regulations and will repeal existing regulations;

(6) the rules will expand certain existing regulations and limit certain existing regulations;

(7) the rules will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the rules will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

The rules do not impose a cost on regulated persons. The rules are not subject to Texas Government Code §2001.0045 because the rules do not impose a cost, are necessary to protect the health, safety, and welfare of the residents of this state, and are necessary to implement legislation as House Bill 5629 and Senate Bill 1818 and require the adoption of rules to implement the changes made to Texas Occupations Code Chapter 55. Furthermore, the changes made by such legislation remove, rather than impose, certain fees. The rules, in addition, do not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454; §454.201, which requires that a person be licensed under Chapter 454 in order to practice occupational therapy; §454.202, which requires that the applicant for a license submit to the Board a written application on a form provided by the Board; §454.211, which authorizes the Board to provide for the issuance of a temporary license; §454.216, which authorizes the Board to issue a license by endorsement; and §454.301, which addresses Grounds for Denial of License or Discipline of License Holder.

CROSS REFERENCE TO STATUTE

The amendments are also proposed under the following sections of the Texas Occupations Code, as amended, as applicable, by House Bill 5629 and Senate Bill 1818 in the 89th Regular Legislative Session, which take effect September 1, 2025: §55.004, which establishes alternative licensure procedures; §55.005, which establishes expedited licensing services; §55.007, which establishes license eligibility requirements; §55.009, which establishes fee waivers for military service members, military veterans, and military spouses; and §55.0041, which establishes a recognition process for the out-of-state license of a military service member or military spouse.

The amendments are, additionally, proposed under the following sections, enacted by House Bill HB 5629, effective September 1, 2025: Texas Occupations Code §55.0042, which establishes criteria for the determination of good standing, and §55.0043, which establishes a recording and publication process regarding complaints concerning military service members, military spouses, and military veterans whose licenses are issued or out-of-state licenses are recognized under the chapter. The amendments, in addition, are proposed under Texas Occupations Code Chapter 53, which concerns consequences of a criminal conviction.

§364.1. Requirements for Licensure.

(a) All applicants for initial Texas licensure shall:

(1) submit a completed [~~complete~~] application form as prescribed by the Board and non-refundable application fee as set by the Executive Council;

(2) submit in paper or electronic form a current color photograph that meets the requirements for a U.S. passport. A photograph in electronic form must be of a high-quality resolution comparable to that of a passport photograph in paper form;

(3) submit a successfully completed Board jurisprudence examination on the Act and Rules;

(4) have completed academic and supervised field work requirements of an accredited educational program in occupational therapy as per §454.203 of the Act (relating to Qualifications for Occupational Therapist or Occupational Therapy Assistant License) or if foreign-trained, have met substantially equivalent academic and supervised field work requirements as per §454.205 of the Act (relating to Foreign-Trained Applicants);

(5) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation; and

(6) either meet the requirements in §364.2 of this title (relating to Initial License by Examination) and apply by examination or

meet the requirements in §364.4 of this title (relating to Licensure by Endorsement) and apply by endorsement.

(b) The applicant must also meet the requirements in §364.2 of this title and apply by examination if the applicant:

(1) has not passed the NBCOT certification examination; or

(2) has passed the NBCOT certification examination and

(A) is not currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(c) The applicant must also meet the requirements in §364.4 of this title and apply by endorsement if the applicant has passed the NBCOT certification examination and:

(1) is currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(2) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(d) Applicants who are military service members, military veterans, and military spouses. [:]

(1) The Board shall credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, with respect to an applicant who is a military service member or military veteran. This paragraph does not apply to an applicant who holds a restricted license issued by another territory or state of the U.S. or has an unacceptable criminal history according to Texas Occupations Code Chapter 53 (relating to Consequences of Criminal Conviction), the Act, or the Rules.

[~~(2) The Board shall waive the application fees for a military service member or military veteran who is applying for a license by examination as per §364.2 of this title. In order to request a waiver of application fees, the military service member or military veteran must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation.~~]

(2) [~~(3)~~] The Board shall waive the application fees [~~and will expedite the issuance of a license~~] for a military service member, military veteran, or military spouse who is applying for licensure [~~by endorsement as per §364.4 of this title. In order to request a waiver of application fees and expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation~~].

(3) Alternative licensing and expedited services for military service members, military veterans, or military spouses who hold a current license in another state.

(A) A military service member, military veteran, or military spouse is eligible to apply for licensure by endorsement as per §364.4 of this title if the individual holds a current license issued by another state of the U.S. that is similar in scope of practice to the license in this state, is in good standing with that state's licensing authority, and submits a statement attesting to being in good standing on a form prescribed by the Board. For purposes of this subsection, a military service member, military veteran, or military spouse is in good standing with another state's licensing authority if the individual:

(i) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(ii) has not been disciplined by the licensing authority with respect to the license or person's practice of occupational therapy; and

(iii) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's license or occupational therapy.

(B) Not later than the 10th business day after the date the Board receives an application from the military service member, military veteran, or military spouse, the Board shall promptly:

(i) process the application; and

(ii) issue the license to an applicant who has met requirements for licensure.

(C) The Board shall maintain a record of each complaint made against a military service member, military veteran, or military spouse to whom the agency issues a license under paragraph (3) of this section and publish at least quarterly on its website the information maintained under this subparagraph, including a general description of the disposition of each complaint.

(4) In order to request services under this subsection, the military service member, military veteran, or military spouse must, in a manner prescribed by the Board, identify the services requested, notify the Board of the individual's military affiliation, and submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation.

(5) [~~(4)~~] In this subsection [~~section~~], "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Texas Occupations Code, §55.001.

(e) An application for license is valid for one year after the date it is received by the Board. [~~At the end of the year, the application fee must be paid to continue the application process for the second year.~~]

(f) An applicant who submits an application containing false information may be denied a license by the Board.

(g) Should the Board reject an application for license, the reasons for the rejection will be communicated in writing to the applicant. The applicant may submit additional information and request reconsideration by the Board. If the applicant remains dissatisfied, a hearing may be requested as specified in the Act.

(h) Applicants and new licensees shall refer to Chapter 369 of this title for provisions regarding information changes and verification of temporary or regular license issuance and current licensure.

(i) The first regular license is valid from the date of issuance until the last day of the applicant's birth month, with a duration of at least two years.

§364.2. Initial License by Examination.

(a) An applicant applying for license by examination must:

(1) meet all provisions of §364.1 of this title (relating to Requirements for a License); and

(2) pass the NBCOT certification examination for occupational therapists or occupational therapy assistants with a score set by NBCOT. Score reports must be sent directly to the Board by NBCOT.

(b) The application for license must be received no later than two years following the date of the passing examination. If the application is received after this time, the applicant must take and pass the NBCOT examination for licensure purposes only. The applicant must request Board approval to take this examination. The score report must be sent directly to the Board by NBCOT.

(c) An applicant who fails an examination may take additional examinations by sending in the appropriate, non-refundable fee as set by the Executive Council and a completed [~~with the Board's~~] re-exam form as prescribed by the Board.

(d) Applicants with a history of licensure in occupational therapy in a state or territory of the U.S. If the Board cannot verify the applicant's history of licensure in occupational therapy, including disciplinary action, the applicant must submit a verification of license. The verification must be an original verification sent directly to the Board by the licensing board of the state or territory. Disciplinary action must be reported to the Board.

(e) Previous Texas licensees are not eligible for Initial License by Examination.

§364.3. Temporary License.

(a) The Board may only issue a temporary license to an applicant who is taking the NBCOT certification examination for the first time.

(b) Temporary Licensure is not available to applicants who have received a license in any state or territory of the U.S. as an occupational therapy practitioner or to applicants applying from the U.S. military or a non-licensing state or territory of the U.S. who have had occupational therapy employment for at least two years preceding application for a Texas license, unless it was as an occupational therapy assistant, and they now meet the requirements for a temporary license as an occupational therapist, or it was as an occupational therapist, and they now meet the requirements for a temporary license as an occupational therapy assistant. In this section, "occupational therapy practitioner" means an individual licensed as an occupational therapist or occupational therapy assistant in any state or territory of the U.S.

(c) To be issued a temporary license, the applicant must:

(1) meet all provisions of §364.1 of this title (relating to Requirements for a License);

(2) meet all provisions of §364.2 of this title (relating to License by Examination);

(3) submit the Confirmation of Exam [~~Examination~~] Registration and Eligibility to Examine form from NBCOT, which must be sent directly to the Board by NBCOT and which reflects the eligibility window in which the applicant will take the examination;

(4) submit a copy of the receipt showing that an NBCOT score report has been ordered for the Board;

(5) submit a completed [~~signed~~] verification of supervision on a form prescribed by the Board; and

(6) submit a completed application form for a temporary license as prescribed by the Board and [~~;send the Board~~] the non-refundable temporary license fee as set by the Executive Council.

(d) If the applicant fails the examination, fails to take the examination during the eligibility window as stated on the Confirmation of Exam [~~Examination~~] Registration and Eligibility to Examine form from NBCOT received pursuant to subsection (c)(3) of this section, or fails to have the score reported, the temporary license is void and must be returned to the Board.

(e) An additional temporary license will not be issued.

(f) A temporary license shall be valid no longer than 180 days.

§364.4. Licensure by Endorsement.

(a) The Board may issue a license by endorsement to applicants who have passed the NBCOT certification examination and are either currently licensed in another state or territory of the U.S. that has licensing requirements substantially equivalent to this state or, if not currently licensed in a state or territory of the U.S., are applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license. Previous Texas licensees are not eligible for Licensure by Endorsement. An applicant seeking licensure by endorsement must:

(1) meet all provisions of §364.1 of this title (relating to Requirements for Licensure);

(2) arrange to have NBCOT send directly to the Board the applicant's NBCOT certification examination score report (or for applicants examined prior to 1986, a Verification of Certification form); and

(3) submit a verification of license if the Board cannot verify the applicant's history of licensure in occupational therapy, including disciplinary action. The verification must be an original verification sent directly to the Board by the licensing board of the state or territory. Disciplinary action must be reported to the Board. If the applicant is not currently licensed in a state or territory of the U.S. and is applying from the U.S. military or a non-licensing state or territory of the U.S., a completed verification of employment [~~Verification of Employment~~] form as prescribed by the Board must be submitted substantiating occupational therapy employment for at least two years immediately preceding application for a Texas license.

(b) Provisional License: The Board may grant a Provisional License to an applicant who is applying for licensure by endorsement if there is an unwarranted delay in the submission of required documentation outside the applicant's control. All other requirements for licensure by endorsement must be met. The applicant must also submit the Provisional License fee as set by the Executive Council. The Board may not grant a provisional license to applicants with disciplinary action in their license history or to applicants with pending disciplinary action. The Provisional License will have a duration of 180 days.

§364.5. Recognition of Out-of-State License of Military Service Members and Military Spouses.

(a) Notwithstanding any other law, a military service member or military spouse may engage in the practice of occupational therapy without obtaining the applicable occupational therapy license if the service member or spouse [~~is~~] currently holds a license similar in scope of practice issued by the licensing authority of another state of the U.S. and is [~~licensed~~] in good standing with that licensing authority [~~by another jurisdiction of the U.S. that has licensing requirements that are substantially equivalent to the requirements for the license in this state~~].

(b) Before engaging in the practice of occupational therapy, the military service member or military spouse must:

(1) submit a completed application in the manner prescribed by the Board that includes:

(A) a copy of the member's military orders showing relocation to this state;

(B) if the applicant is a military spouse, a copy of the military spouse's marriage license;

(C) a notarized affidavit affirming under penalty of perjury that:

(i) the applicant is the person described and identified in the application;

(ii) all statements in the application are true, correct, and complete;

(iii) the applicant understands the scope of practice for the license in this state and will not perform outside of that scope of practice; and

(iv) the applicant is in good standing in each state in which the applicant holds or has held an occupational therapy license. For purposes of this subsection, a person is in good standing with another state's licensing authority if the person:

(I) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(II) has not been disciplined by the licensing authority with respect to the license or person's practice of occupational therapy; and

(III) is not currently under investigation by the licensing authority for unprofessional conduct related to the person 's license or occupational therapy.

(2) receive notification that the Board recognizes the applicant's out-of-state license.

[~~(1) notify the Board in writing of the following:~~]

[~~(A) the service member's or spouse's intent to practice in this state;~~]

[~~(B) the service member's or spouse's full name and any previous last names, social security number, date of birth, phone number, business phone number, residential address, business address, mailing address, and email address;~~]

[~~(C) the license type, license number, and jurisdiction in which the service member or spouse is currently licensed in good standing; and~~]

[~~(D) a list of all jurisdictions in which the service member or spouse has held or currently holds a license with the license type, license number, and license expiration date of each;~~]

[~~(2) submit to the Board proof of the service member's or spouse's residency in this state and a copy of the service member's or spouse's military identification card. Proof of residency may include a copy of the permanent change of station order for the military service member or, with respect to a military spouse, the permanent change of station order for the military service member to whom the spouse is married; and~~]

[~~(3) receive from the Board written confirmation that:~~]

[~~(A) the Board has verified the service member's or spouse's license in the other jurisdiction; and~~]

[~~(B) the service member or spouse is authorized to engage in the practice of occupational therapy in accordance with this section.~~]

(c) Not later than the 10th business day after the date the Board receives an application under subsection (b)(1) of this section, the Board shall promptly notify the applicant that:

(1) the Board recognizes the applicant's out-of-state license;

(2) the application is incomplete; or

(3) the Board is unable to recognize the applicant's out-of-state license because the Board does not issue a license similar in scope of practice to the applicant's license.

(d) [~~(c)~~] The military service member or military spouse shall comply with all other laws and regulations applicable to the practice of occupational therapy in this state, including all other laws and regulations in the Occupational Therapy Practice Act and the Texas Board of Occupational Therapy Examiners Rules. The military service member or military spouse may be subject to revocation of the authorization described by subsection (b)(2) [~~(b)(3)(B)~~] of this section for failure to comply with these laws and regulations and the Board may notify any jurisdictions in which the military service member or military spouse is licensed of the revocation of such.

(e) [~~(d)~~] A military service member or military spouse may engage in the practice of occupational therapy under the authority of this section only for the period during which the military service member or, with respect to a military spouse, the military service member to whom the spouse is married is stationed at a military installation in this state [~~but not to exceed three years from the date the service member or spouse receives the confirmation described by subsection (b)(3) of this section~~].

(f) [~~(e)~~] In [~~Notwithstanding subsection (d) of this section, in~~] the event of a divorce or similar event that affects a person's status as a military spouse, the former spouse may continue to engage in the practice of occupational therapy under the authority of this section until the third anniversary of the date the spouse submitted the application required [~~received the confirmation described~~] by subsection (b)(1) [~~(b)(3)~~] of this section.

(g) [~~(f)~~] During the authorization period described by subsection (b)(2) [~~(b)(3)(B)~~] of this section, the military service member or military spouse must:

(1) hold a license similar in scope of practice issued by the licensing authority of another state of the U.S. and be in good standing in each state in which the applicant holds or has held an occupational therapy license; [~~maintain a current license in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state;~~]

(2) update the Board within 30 days of any changes to information submitted pursuant to subsection (b)(1) of this section [~~as specified in subsections (b)(1)(B)-(C) and (b)(2) of this section within 30 days of such change(s)~~]; and

(3) notify the Board of any judgment or settlement in a malpractice claim or any disciplinary action taken against the licensee by a licensing authority of another territory or state of the U.S. within 30 days after the judgment, settlement, or disciplinary action is signed.

[~~(3) notify the Board within 30 days of any disciplinary action taken against the service member or spouse by another jurisdiction.~~]

(h) [~~(g)~~] With [~~The Board will identify, with~~] respect to each type of license issued by the Board, the Board will publish on its website the states [~~jurisdictions~~] that issue licenses similar in scope to those issued by the Board [~~have licensing requirements that are substantially equivalent to the requirements for the license in this state; and not later than the 30th day after the receipt of the items described by subsections (b)(1)-(2) of this section, the Board shall verify that the military service member or military spouse is licensed in good standing in a jurisdic-~~

~~tion of the U.S. that has licensing requirements that are substantially equivalent to the requirements for the license in this state~~].

(i) The Board shall maintain a record of each complaint made against a military service member, military veteran, or military spouse who holds an out-of-state license the Board recognizes under this section. The Board shall publish at least quarterly on its website the information maintained under this subsection, including a general description of the disposition of each complaint.

(j) [~~(h)~~] In this section, "military service member" and "military spouse" have the meaning as defined in Chapter 55, Texas Occupations Code, §55.001.

(k) [~~(i)~~] This section establishes requirements and procedures authorized or required by Chapter 55, Texas Occupations Code, and does not modify or alter rights that may be provided under federal law.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502962
Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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CHAPTER 369. DISPLAY OF LICENSES

40 TAC §369.1

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §369.1. Display of Licenses. The amendments cleanup and clarify the section and make changes to enhance the alignment of the section with the Board's new licensing system.

The amendments to the section include cleanups and clarifications. A cleanup is made, for instance, to remove language concerning a verification resource to match a similar change made elsewhere in the board rules as part of prior rulemaking and to align related online license verification information with other extant language in the board rules. With regard to fees for a replacement license, the amendments will clarify that such are set by the Executive Council of Physical Therapy and Occupational Therapy Examiners.

Amendments to the section also include further clarifications and better align the section with the Board's new licensing system, which will facilitate a more efficient license-replacement process. Currently, the section requires a written request for a replacement license and the Board provides a related form licensees may access on its website. The amendments will remove a reference to a written request and instead add language that requires a form as prescribed by the Board. The changes will assist the Board in ensuring that the necessary materials and information are submitted in a standardized format and align the rule better with the new licensing system, which requires an application for the online submission of a request.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and consistency of the board rules and efficiency in the replacement-license process.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rule would be in effect:

(1) the rule will not create or eliminate a government program;

(2) the rule will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create new regulations and will not repeal an existing regulation;

(6) the rule will expand certain existing regulations and will not limit certain existing regulations;

(7) the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the rule will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

Mr. Harper has determined that the rule is not subject to Texas Government Code §2001.0045 as the rule does not impose a

cost on regulated persons. In addition, the rule does not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454, and under §454.214, which requires a licensee to display the license.

CROSS REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these amendments.

§369.1. Display of Licenses.

(a) Licenses must be displayed in accordance with the Act, §454.214.

(b) The original license must be prominently displayed in the licensee's principal place of business as designated by the licensee. Reproduction of the original license is only authorized for institutional file purposes and not for public display.

(c) A licensee may provide occupational therapy services according to the terms of the license upon online verification of current licensure and license expiration date from the Board's license verification web page. [~~The Board will maintain a secure resource for verification of license status and expiration date on its website.~~]

(d) A licensee shall not make any alteration(s) on a license.

(e) The Board may issue a copy of a license to replace one lost or destroyed upon receipt of a completed form as prescribed by the Board and the non-refundable fee as set by the Executive Council [~~written request and the appropriate fee from the licensee~~]. The Board may issue a replacement copy of a license to reflect a name change upon receipt of a completed form as prescribed by the Board, the non-refundable fee as set by the Executive Council [~~written request, the appropriate fee~~], and a copy of the legal document (such as a marriage license, court decree, or divorce decree) evidencing the name change.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502963

Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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CHAPTER 370. LICENSE RENEWAL

40 TAC §§370.1 - 370.3

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §370.1. License Renewal, §370.2. Late Renewal, and §370.3. Restoration of a Texas License. The amendments revise the sections, including to cleanup and clarify the sections and amend the sections pursuant to House Bill 5629 and Senate Bill 1818 of the 89th Regular Legislative Session and the changes effective September 1, 2025, that are made by such to Texas Occupations Code Chapter 55.

The amendments to the sections include cleanups and clarifications. For example, cleanups to §370.3 include removing references to specific sections of Chapter 367, Continuing Education, of the board rules and replacing such with references to the whole chapter. This will ensure that the references are up-to date and that future changes to Chapter 367 that might relocate certain information to other areas of the chapter will not affect the continuing accuracy of §370.3.

The amendments also include clarifications, for example, by adding to the sections language such as "as prescribed by the Board," with regard to applications, and adding "Texas" in front of "Occupations Code" in §370.2.

Changes are also made pursuant to the 89th Regular Legislative Session and House Bill 5629 and Senate Bill 1818, which amend Texas Occupations Code Chapter 55. The changes, which address fee waivers, expedited services, and complaint recording and publishing information with regard to military service members, military veterans, and military spouses, will align the sections and requirements with the recent legislation.

Pursuant to such, for example, a provision regarding fee waivers for military service members, military veterans, and military spouses is added to the section. Board rules require that individuals who were previously licensed in Texas and whose licenses are expired one year or more restore a license, rather than apply for a new license. Such, for example, supports public protection by helping to ensure that individuals maintain the same license number, which allows for public licensure information, including any disciplinary action, to be associated with and searchable by the same license number for a certain license type. This allows the public to more easily access comprehensive licensing information concerning an individual. Correspondingly, though, as such individuals, as noted, are required to restore, fee waivers are added to the section for military service members, military veterans, and military spouses so that they may avail themselves of the waivers provided by amendments to Texas Occupations Code §55.009, which expand fee waivers for that cohort, pursuant to House Bill 5629.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed

amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and consistency of the rules, efficiency in the licensure process, and conformance of board rules to related statutes in Texas Occupations Code Chapter 55.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rules would be in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase in fees paid to the agency and will require a decrease in licensing fees paid to the agency by certain military service members, military service members, and military spouses;

(5) the rules will create new regulations and will not repeal existing regulations;

(6) the rules will expand certain existing regulations and limit certain existing regulations;

(7) the rules will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the rules will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

The rules do not impose a cost on regulated persons. The rules are not subject to Texas Government Code §2001.0045 because the rules do not impose a cost, are necessary to protect the health, safety, and welfare of the residents of this state, and are necessary to implement legislation as House Bill 5629 and Senate Bill 1818 and require the adoption of rules to implement the changes made to Texas Occupations Code Chapter 55. Furthermore, the changes made by such legislation remove, rather than impose, certain fees. The rules, in addition, do not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454. Specifically, the amendments to §370.2 and §370.3 are proposed under Texas Occupations Code §454.252, which requires that a person whose license has been expired less than one year may renew the license by paying the renewal fee and late fee set by the Executive Council of Physical Therapy and Occupational Therapy Examiners and which authorizes the Board to reinstate a license expired one year or more. The amendments to §370.3 are proposed under Texas Occupations Code §454.253, which authorizes the Board to renew the expired license of an individual licensed in another state and the amendments to §370.3 are proposed under Texas Occupations Code §454.254, which authorizes the Board to require license holders to attend continuing education courses specified by the Board.

CROSS REFERENCE TO STATUTE

The amendments are also proposed under the following sections of the Texas Occupations Code, as amended, as applicable, by House Bill 5629 and Senate Bill 1818 in the 89th Regular Legislative Session, which take effect September 1, 2025: §55.004, which establishes alternative licensure procedures; §55.005, which establishes expedited licensing services; and §55.009, which establishes fee waivers for military service members, military veterans, and military spouses.

The amendments are, additionally, proposed under the following sections, enacted by House Bill HB 5629, effective September 1, 2025: Texas Occupations Code §55.0042, which establishes criteria for the determination of good standing, and §55.0043, which establishes a recording and publication process regarding complaints concerning military service members, military spouses, and military veterans whose licenses are issued under the chapter.

§370.1. License Renewal.

(a) Licensee Renewal. Licensees are required to renew their licenses every two years by the end of their birth month. A licensee may not provide occupational therapy services without a current license. Licenses and license expiration dates should be verified on the Board's license verification web page.

(1) General Requirements. The renewal application is not complete until the Board receives all required items. The components required for license renewal are:

(A) a completed [~~complete~~] renewal application form as prescribed by the Board verifying completion of the required continuing education [~~,~~] as per Chapter 367 of this title (relating to Continuing Education);

(B) the renewal fee and any late fees as set by the Executive Council that may be due;

(C) a passing score on the jurisprudence examination;

(D) the licensee's residential [~~physical~~] address, any business [~~work~~] address, other mailing address, and email address; and

(E) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(2) The licensee is responsible for ensuring that the license is renewed, whether receiving a renewal notice or not.

(3) The renewal process is not complete until the Board's license verification web page reflects that the license has been renewed by displaying the new renewal date.

(4) Renewal fees and late fees are non-refundable.

(5) Licensees electing to change their status or renewing a license on inactive or retired status must meet further requirements as per Chapter 371 of this title (relating to Inactive and Retired Status).

(6) Licensees renewing a license expired one year or more must meet further requirements as per §370.3 of this title (relating to Restoration of a Texas License).

(b) Restrictions to Renewal. The Board will not renew a license if it receives information from a child support agency that a licensee has failed to pay child support under a support order for six months or more as provided by Texas Family Code §232.0135. If all other renewal requirements have been met, the license will be renewed when the child support agency notifies the Board it may renew the license.

§370.2. Late Renewal.

(a) A renewal application is late if all the required renewal materials do not bear a postmark or electronic time-stamp showing a date prior to the expiration of the license.

(b) If the license has been expired for less than one year, the person may renew the license by completing all renewal requirements and submitting the renewal fee and the appropriate late fee.

(c) Military Service:

(1) A licensee will be exempt from late fees and penalty for failure to timely renew a license if the licensee establishes to the satisfaction of the Board that failure to renew the license in a timely manner was because the licensee was serving as a military service member.

(2) A licensee who is a military service member is entitled to two years of additional time after the expiration of the license to complete:

(A) any continuing education requirements; and

(B) any other requirements related to the renewal of the license.

(3) In this section, "military service member" has the meaning as defined in Chapter 55, Texas Occupations Code, §55.001.

§370.3. Restoration of a Texas License.

(a) Restoration of a license expired one year or more to a person with a current license or occupational therapy employment:

(1) The Board may restore a license to a person whose Texas license has been expired one year or more if the person:

(A) is currently licensed in another state or territory of the U.S. and that license has not been suspended, revoked, cancelled, surrendered or otherwise restricted for any reason; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board;

(B) submit in paper or electronic form a current color photograph that meets the requirements for a U.S. passport. A photograph in electronic form must be of a high-quality resolution comparable to that of a passport photograph in paper form;

(C) submit documentation of the completion of training on human trafficking as described in Chapter 367 [~~§367.1~~] of this title (relating to Continuing Education) [~~that meets documentation requirements as per §367.3 of this title (relating to Continuing Education Audit)~~];

(D) submit a verification of license if the Board cannot verify the applicant's history of licensure in occupational therapy, including disciplinary action. The verification must be an original verification sent directly to the Board by the licensing board of the state or territory. Disciplinary action must be reported to the Board. If the applicant is not currently licensed in a state or territory of the U.S. and is applying from the U.S. military or a non-licensing state or territory of the U.S., a completed verification of employment [~~Verification of Employment~~] form as prescribed by the Board must be submitted substantiating occupational therapy employment for at least two years immediately preceding application for a Texas license;

(E) pass the jurisprudence examination;

(F) pay the restoration fee; and

(G) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(b) Restoration of a license expired at least one year but less than two years to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired at least one year but less than two years to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board;

(B) submit in paper or electronic form a current color photograph that meets the requirements for a U.S. passport. A photograph in electronic form must be of a high-quality resolution comparable to that of a passport photograph in paper form;

(C) submit copies of the completed continuing education showing 36 hours of continuing education as per Chapter 367 of this title (relating to Continuing Education) that includes training on human trafficking as described in that chapter;

(D) submit a verification of license if the Board cannot verify the applicant's history of licensure in occupational therapy, including disciplinary action. The verification must be an original verification sent directly to the Board by the licensing board of the state or territory. Disciplinary action must be reported to the Board;

(E) pass the jurisprudence examination;

(F) pay the restoration fee; and

(G) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(c) Restoration of a license expired two years or more to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired two years or more to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) submit a completed restoration application form as prescribed by the Board;

(B) submit in paper or electronic form a current color photograph that meets the requirements for a U.S. passport. A photograph in electronic form must be of a high-quality resolution comparable to that of a passport photograph in paper form;

(C) submit documentation of the completion of training on human trafficking as described in Chapter 367 [~~§367.1~~] of this title (relating to Continuing Education) [~~that meets documentation requirements as per §367.3 of this title (relating to Continuing Education Audit)~~];

(D) submit a verification of license if the Board cannot verify the applicant's history of licensure in occupational therapy, including disciplinary action. The verification must be an original verification sent directly to the Board by the licensing board of the state or territory. Disciplinary action must be reported to the Board;

(E) pass the jurisprudence examination;

(F) pay the restoration fee;

(G) submit a complete and legible set of fingerprints in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(i) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(ii) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(iii) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status; and

(H) satisfy one of the following no more than two years prior to the submission of the application:

(i) complete a re-entry course through an accredited college or university and submit the certificate of completion or transcript to the Board;

(ii) obtain an advanced or post-professional occupational therapy degree, with an official transcript sent to the Board; or

(iii) take and pass the NBCOT examination for licensure purposes only (after requesting Board approval to take the ex-

amination) and have the passing score reported to the Board directly by NBCOT.

(d) Military service members, military veterans, and military spouses.

(1) Fee waiver. The Board shall waive the restoration fee for a military service member, military veteran, or military spouse.

(2) Expedited services.

(A) With regard to a military service member, military veteran, or military spouse who within the five years preceding the application date held the license in this state, the Board shall promptly, not later than the 10th business day after the date the individual submits an application for restoration:

(i) process the application; and

(ii) restore the license to an individual who has met requirements for restoration.

(B) The Board shall maintain a record of each complaint made against a military service member, military veteran, or military spouse whose license is restored under paragraph (2) of this subsection and publish at least quarterly on its website the information maintained under this subparagraph, including a general description of the disposition of each complaint.

(3) In order to request services under this subsection, the military service member, military veteran, or military spouse must, in a manner prescribed by the Board, identify the services requested, notify the Board of the individual's military affiliation, and submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation.

(4) In this subsection, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Texas Occupations Code, §55.001.

~~[(d) The Board shall expedite the restoration of a license to a military service member, military veteran, or military spouse. To request expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation. In this section, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Occupations Code, §55.001.]~~

(e) The licensee whose license has been restored shall refer to Chapter 369 of this title for provisions regarding verification of current licensure.

(f) The restoration fee as set by the Executive Council is nonrefundable.

(g) Restoration requirements must be met within one year of the Board's receipt of the application. Restoration requirements are based on the length of time the license has been expired and whether the individual has a current license or occupational therapy employment as specified in this section at the time of the license's restoration.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502964

Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

CHAPTER 371. INACTIVE AND RETIRED STATUS

40 TAC §371.1, §371.2

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §371.1, Inactive Status, and §371.2, Retired Status. The amendments cleanup and clarify the sections and make changes to enhance the alignment of the sections with the agency's new licensing system and support a more efficient licensing process.

Cleanups include changes to §371.1 to combine the requirements to put a license on and renew a license on inactive status as the requirements for both are equivalent. Similar changes are made, with regard to retired status, to §371.2. Such changes will simplify the sections.

The amendments to the sections include clarifications. For example, language is added, with regard to applications, that such are prescribed by the Board. A further clarification concerns the duration a licensee may remain on inactive status. Section 371.1(a) already included that one may remain on inactive status for no more than six consecutive years, but corresponding text did not also appear before "three renewals"; and a renewal cycle is of a two-year duration. The amendments will replace "three renewals" with "three consecutive renewal cycles" so that the text will include "A licensee may remain on inactive status for no more than three consecutive renewal cycles or six consecutive years."

Amendments to the section also include further clarifications and better align the section with the Board's new licensing system. Currently, the sections include descriptive qualifiers such as "renewal application form" or "retired status form" with respect to certain forms required for licensing actions concerning changing or renewing certain licensing statuses. Such qualifiers are limiting and may serve as impediments to making the licensing process more efficient, for instance, by referencing certain application types that, due to changes in internal licensing software or capabilities, for example, may no long accommodate or may not best accommodate such processes. Indeed, the agency's move to a new licensing system has created opportunities for the development of application processes that may make such functions more efficient and removing such qualifiers supports the more agile development of such.

The amendments also include the addition of a requirement that those seeking to return to active status from retired status submit a related application. The change will ensure that when such a request is submitted, the necessary information and materials are submitted for such, which will ensure a more efficient licensing process. Such will also facilitate the integration of this licensing action into the agency's new licensing system.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed

amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and consistency of the rules and efficiency in the replacement-license process.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rules would be in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create a new regulation and will not repeal an existing regulation;

(6) the rules will not expand certain existing regulations or limit certain existing regulations;

(7) the rules will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the rules will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

Mr. Harper has determined that the rules are not subject to Texas Government Code §2001.0045 as the rules do not impose a cost on regulated persons. In addition, the rules do not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, Rules, which authorizes the Board to adopt rules to carry out its duties under Chapter 454, and §454.212, which allows for the Board to provide for a license holder to place the holder's license on inactive status.

CROSS REFERENCE TO STATUTE

The proposed amendments to §371.2 implement Texas Occupations Code §112.051, which requires each licensing entity to adopt rules providing for reduced fees and continuing education requirements for a retired health care practitioner whose only practice is voluntary charity care. No other statutes, articles, or codes are affected by these amendments.

§371.1. Inactive Status.

(a) Inactive status indicates the voluntary termination of the right to practice occupational therapy by a licensee in good standing with the Board. The Board may allow an individual who is not actively engaged in the practice of occupational therapy to put an active license on inactive status at the time of renewal. A licensee may remain on inactive status for no more than three consecutive renewal cycles [~~renewals~~] or six consecutive years and may not represent oneself [~~himself or herself~~] as an occupational therapist or occupational therapy assistant.

(b) A licensee on inactive status must renew every two years before the license expiration date.

(c) [~~(b)~~] Required components to put a license on inactive status or renew a license on inactive status are:

(1) a completed [~~renewal~~] application form as prescribed by the Board documenting completion of the required continuing education as described in Chapter 367 of this title (relating to Continuing Education);

(2) the inactive status fee and any late fees that may be due; and

(3) a passing score on the jurisprudence examination.

[~~(c) Requirements for renewal of inactive status. An inactive licensee must renew the inactive status every 2 years. The components required to maintain the inactive status are:~~]

[(1) a completed renewal application form documenting completion of the required continuing education as described in Chapter 367 of this title (relating to Continuing Education);]

[(2) the inactive status fee and any late fees that may be due; and]

[(3) a passing score on the jurisprudence examination.]

(d) Requirements for reinstatement to active status. A licensee on inactive status may request to return to active status at any time. The components required to return to active status are:

(1) a completed [renewal] application form as prescribed by the Board;

(2) the active status renewal fee and any late fees that may be due;

(3) a passing score on the jurisprudence examination;

(4) proof of the required continuing education, if required; and

(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

(e) If the inactive status license has been expired one year or more, in order to return to active status, the individual must follow the procedures to restore the license according to §370.3 of this title (relating to Restoration of a Texas License).

(f) The inactive status fees and any late fees as set by the Executive Council are nonrefundable.

(g) Licensees on inactive status are subject to the audit of continuing education as described in §367.3 of this title (relating to Continuing Education Audit).

§371.2. Retired Status.

(a) The Retired Status is available for an occupational therapy practitioner whose only practice is the provision of voluntary charity care without monetary compensation.

(1) "Voluntary charity care" means occupational therapy services provided as a volunteer with no compensation.

(2) "Compensation" means direct or indirect payment of anything of monetary value.

(3) The designation used by the retired status licensee is Occupational Therapist Registered, Retired (OTR, Ret) or Occupational Therapist, Retired (OT, Ret), or Certified Occupational Therapy Assistant, Retired (COTA, Ret) or Occupational Therapy Assistant, Retired (OTA, Ret).

(b) To be eligible for retired status, a licensee must hold a current license on active or inactive status or an active or inactive status license that has been expired less than one year. The license may only be put on retired status at the time of renewal.

(c) A licensee on retired status must renew every two years before the license expiration date.

(d) [(c)] Requirements to put a license on [for initial] retired status or renew a license on retired status are:

(1) a completed application [retired status] form as prescribed by the Board;

(2) a passing score on the jurisprudence examination;

(3) completion of 6 hours of continuing education as described in Chapter 367 of this title (relating to Continuing Education) that includes training on human trafficking as described in that chapter;

(4) the retired status fee and any late fees that may be due; and

(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:

(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;

(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or

(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.

[(d) Requirements for renewal of retired status. A licensee on retired status must renew every two years before the expiration date. The retired occupational therapy practitioner shall submit:]

[(1) a completed retired status form;]

[(2) a passing score on the jurisprudence examination;]

[(3) the retired status fee and any late fees that may be due;]

[(4) completion of 6 hours of continuing education each license renewal period as described in Chapter 367 of this title (relating to Continuing Education) that includes training on human trafficking as described in that chapter; and]

[(5) a complete and legible set of fingerprints submitted in the manner prescribed by the Board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The licensee is not required to submit fingerprints under this section if the license holder has previously submitted fingerprints under:]

[(A) Chapter 364 of this title (relating to Requirements for Licensure) for the initial issuance of the license;]

[(B) Chapter 370 of this title (relating to License Renewal) as part of a prior license renewal; or]

[(C) Chapter 371 of this title (relating to Inactive and Retired Status) as part of a prior license renewal or change of license status.]

(e) Requirements for return to active status. A licensee who has been on retired status less than one year must submit a completed application form as prescribed by the Board, the active status renewal fee and the late fee as described in §370.1 of this title (relating to License Renewal), and 18 additional hours of continuing education as described in Chapter 367 of this title (relating to Continuing Education). A licensee who has been on retired status for one year or more

must follow the procedures for §370.3 of this title (relating to Restoration of Texas License).

(f) The occupational therapy practitioner may continue to renew the retired status license indefinitely.

(g) Licensees on retired status are subject to the audit of continuing education as described in §367.3 of this title (relating to Continuing Education Audit).

(h) A retired occupational therapy practitioner is subject to disciplinary action under the Occupational Therapy Practice Act.

(i) The retired status fees and any late fees as set by the Executive Council are nonrefundable.

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502965
Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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CHAPTER 374. DISCIPLINARY ACTIONS/DETRIMENTAL PRACTICE/COMPLAINT PROCESS/CODE OF ETHICS/LICENSURE OF PERSONS WITH CRIMINAL CONVICTIONS

40 TAC §374.1, §374.2

The Texas Board of Occupational Therapy Examiners proposes amendments to the Schedule of Sanctions figure in 40 Texas Administrative Code §374.1, Disciplinary Actions, and §374.2, Detrimental Practice. The amendments will revise the sections, including to add items concerning reporting certain information to the Board and clarify and cleanup related items concerning detrimental practice.

An amendment to §374.1 will add a provision requiring licensees to report disciplinary action by another licensing authority and judgments or settlements in a malpractice claim. The amendment is proposed to ensure that the Board is apprised of such and, thus, better able to identify the possible need to investigate any related violations of the OT Act and Rules.

A related amendment to the Schedule of Sanctions in the section will include the addition of a violation that corresponds to the new item. Likewise, an additional amendment is made to the Schedule of Sanctions to add an item that corresponds to a similar, extant item in the section regarding reporting felony convictions. The amendments are proposed to identify the corresponding discipline for such violations.

The amendment to §374.2 will update the definition of "practiced occupational therapy in a manner detrimental to the public health and welfare" to clarify conduct that constitutes grounds for disciplinary action against license holders for failing to give sufficient prior written notice of resignation. The amendment will remove existing text that addresses a different term of notice for those with an existing contract or who are self-employed and have a comparable written agreement with clients; the change will ensure that the item specifies that fourteen days' written notice is required. The change will clarify the provision and the required minimum days' notice that must be given by licensees to help ensure that sufficient notice is given to avoid the loss or delay of occupational therapy services. The revision will also add language to the provision identifying such as "patient abandonment." A related change to the Schedule of Sanctions in §374.1 is made to correspond to the revision. The amendments are proposed to ensure that the rules clearly identify the conduct that may be considered detrimental practice and the corresponding discipline. The changes will also facilitate the ability of individuals and the Board to identify violations and related discipline in order to ensure the health, safety, and welfare of the public.

The amendments include further cleanups to remove language such as "in this paragraph" from §374.2 and related items in the Schedule of Sanctions.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be the greater ability of the Board to identify violations of the OT Act and Rules and to address violations in order to ensure the health, safety, and welfare of the public. There would not be an additional anticipated economic cost to persons required to comply with the proposed amendments because Texas Occupations Code Chapter 454, the Occupational Therapy Practice Act, already allows for the Board to impose an administrative penalty and proposed changes do not exceed that amount authorized by Texas Occupations Code §454.3521(b).

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result,

these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rules would be in effect:

(1) the rules will not create or eliminate a government program;

(2) the rules will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will create new regulations and will not repeal an existing regulation;

(6) the rules will not expand certain existing regulations and will limit certain existing regulations;

(7) the rules will not increase or decrease the number of individuals subject to the rules' applicability; and

(8) the rules will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

These rules are not subject to Texas Government Code §2001.0045 because the rules are necessary to protect the health, safety, and welfare of the residents of this state and the Board is required to adopt a schedule of administrative penalties and other sanctions by rule pursuant to Texas Occupations Code §454.3025(a). The administrative penalties in the Schedule of Sanctions are necessary to deter the practice of occupational therapy in a manner detrimental to the public health and welfare. In addition, the rule does not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, which authorizes the Board to adopt rules to carry out its duties under Chapter 454. The amendments are also proposed under §454.3025, which requires the Board by rule to adopt a schedule of administrative penalties and other sanctions that the Board may impose under this chapter, and under §454.3521, which authorizes the Board to impose an administrative penalty, not to exceed $200 for each day a violation continues or occurs, under this chapter for a violation of this chapter or a rule or order adopted under this chapter. The amendments, lastly, are proposed under Texas Occupations Code §454.301, which includes that the Board may deny, suspend, or revoke a license or take other disciplinary action against a license holder if the applicant or license holder has practiced occupational therapy in a manner detrimental to the public health and welfare.

CROSS REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these amendments.

§374.1. Disciplinary Actions.

(a) The board, in accordance with the Administrative Procedure Act, may deny, revoke, suspend, or refuse to renew or issue a license, or may reprimand or impose probationary conditions, if the licensee or applicant for licensure has been found in violation of the rules or the Act. The board will adhere to procedures for such action as stated in the Act, §§454.301, 454.302, 454.303, and 454.304.

(b) The board recognizes four levels of disciplinary action for its licensees.

(1) Level I: Order and/or Letter of Reprimand or Other Appropriate Disciplinary Action (including but not limited to community service hours).

(2) Level II: Probation--The licensee may continue to practice while on probation. The board orders the probationary status which may include but is not limited to restrictions on practice and continued monitoring by the board during the specified time period.

(3) Level III: Suspension--A specified period of time that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon the successful completion of the suspension period, the license will be reinstated upon the licensee successfully meeting all requirements.

(4) Level IV: Revocation--A determination that the licensee may not practice as an occupational therapist or occupational therapy assistant. Upon passage of 180 days, from the date the revocation order becomes final, the former licensee may petition the board for re-issuance of a license. The former licensee may be required to re-take the Examination.

(c) The board shall utilize the following schedule of sanctions in all disciplinary matters.
Figure: 40 TAC §374.1(c)
[~~Figure: 40 TAC §374.1(c)~~]

(d) The board shall consider the following factors in conjunction with the schedule of sanctions when determining the appropriate penalty/sanction in disciplinary matters:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the violation; and

(B) the hazard or potential hazard created to the health, 4safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;

(5) the economic harm to the public interest or public confidence caused by the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice requires.

(e) Licensees who provide occupational therapy services are responsible for understanding and complying with Chapter 454 of the Occupations Code (the Occupational Therapy Practice Act), and the Texas Board of Occupational Therapy Examiners' rules.

(f) Final disciplinary actions taken by the board will be routinely published as to the names and offenses of the licensees.

(g) A licensee who is ordered by the board to perform certain act(s) will be monitored by the board to ensure that the required act(s) are completed per the order of the board.

(h) The board may expunge any record of disciplinary action taken against a license holder before September 1, 2019, for practicing in a facility that failed to meet the registration requirements of §454.215 of the Act (relating to Occupational Therapy Facility Registration), as that section existed on January 1, 2019. The board may not expunge a record under this subsection after September 1, 2021.

(i) A licensee or applicant is required to report to the board a felony of which he/she is convicted within 60 days after the conviction occurs.

(j) A licensee shall submit to the board a copy of any judgment or settlement in a malpractice claim or any disciplinary action taken against the licensee by a licensing authority of another territory or state of the U.S. within 30 days after the judgment, settlement, or disciplinary action is signed.

§374.2. Detrimental Practice.

§454.301(a)(6) of the Act (relating to Grounds for Denial of License or Discipline of License Holder) states, "practiced occupational therapy in a manner detrimental to the public health and welfare," which is defined, but not limited to, the following:

(1) failing to document occupational therapy services or inaccurately recording, falsifying, or altering client records;

(2) making or filing a false or misleading report, or failing to file a report when it is required by law or third person or obstructing or attempting to obstruct another person from filing such a report;

(3) failing to report or otherwise concealing any conduct by self or another licensee likely to be a violation of the Act or Rules;

(4) drug diversion, which [~~. In this paragraph, "drug diversion"~~] refers to when a medication is diverted from the person to whom it was prescribed;

(5) not providing the supervision required by the Act or Rules for those individuals to whom occupational therapy services are delegated;

(6) practicing occupational therapy without receiving the supervision required by the Act or Rules;

(7) impersonating another person holding a license; aiding, abetting, authorizing, condoning, or allowing the practice of occupational therapy or the representation of oneself as an occupational therapy practitioner by a person without a license; or aiding, abetting, authorizing, condoning, or allowing the use of a license by a person other than the holder of the license;

(8) practicing occupational therapy or representing oneself in a manner not authorized by the license;

(9) failing to cooperate with the agency by not responding to agency correspondence addressed to the individual's designated address(es) or by not furnishing papers or documents requested or not responding to subpoenas issued by the agency within 90 days;

(10) failing to complete the requirements of an agreed order;

(11) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or Board or by the use of threats, intimidation, or harassment against any clients or witnesses with the potential of preventing them from providing evidence in a disciplinary proceeding or any other legal action;

(12) practicing occupational therapy without a valid license, including after the expiration, surrender, or revocation of the license, during the suspension of the license, or after the license is void;

(13) failing to conform to the minimal standards of acceptable prevailing practice, including, but not limited to:

(A) using occupational therapy techniques or modalities for purposes not consistent with the development of occupational therapy as a profession or science or as a means of promoting the public health and welfare;

(B) delegating, performing, or attempting to perform techniques or procedures in which one is untrained by education or experience;

(C) delegating occupational therapy functions or responsibilities to an individual lacking the competency to perform such;

(D) harassing, abusing, or intimidating a client either physically or verbally;

(E) causing or enabling physical or emotional injury to or the impairment of the dignity or safety of the client; and

(F) violating the principles or related standards of conduct of §374.4 of this title (relating to Code of Ethics);

(14) engaging in sexual contact or an inappropriate relationship with a client, including, but not limited to:

(A) engaging in inappropriate behavior with or comments directed toward a client; and

(B) becoming financially or personally involved in an inappropriate manner with a client;

(15) intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting clients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations;

(16) recommending therapeutic devices or modalities sold by a third person for the purpose or with the result of receiving a fee or other consideration from a third person;

(17) failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with Health Insurance Portability and Accountability Act (HIPAA) regulations; and

(18) patient abandonment. "Patient abandonment" means failing to provide sufficient prior written notice of resignation of employment or termination of contract, or if self-employed, sufficient

prior written notice to existing clients or any licensees under the individual's supervision, resulting in the loss or delay of occupational therapy services. "Sufficient" [~~In this paragraph, "sufficient"~~] means at least 14 days [~~; however, should an employment contract, or if self-employed, a comparable written agreement with clients, specify a different period of time, "sufficient" means the term dictated by such, up to and including 30 days~~].

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

Filed with the Office of the Secretary of State on August 18, 2025.

TRD-202502966
Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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CHAPTER 375. FEES

40 TAC §375.1

The Texas Board of Occupational Therapy Examiners proposes amendments to 40 Texas Administrative Code §375.1. Fees. The amendments clarify and cleanup the section and remove unnecessary provisions.

The amendments to the section include clarifications. For example, revisions include replacing "TAC" with Texas Administrative Code and clarifying and simplifying text concerning refunds to correspond to extant language elsewhere in the board rules that fees are non-refundable.

The amendments also remove an outdated reference to the requirement that applicants for a license pay the application fee plus the appropriate license fee. In the past, such fees were consolidated into one application fee and the amendments are made to ensure that the section reflects such changes.

Further cleanups include removing a provision concerning payments after an insufficient funds check has been processed by the Board and an item concerning the suspension of a license for failure to pay child support as such are no longer necessary; in the case of the former, an individual is not required to submit payment in a particular manner after such a check has been processed and, in the case of the latter, the Board does not suspend licensees for such as §370.1(b) of the board rules already includes that the Board will not renew a license if it receives information from a child support agency that a licensee has failed to pay child support under a support order for six months or more as provided by Texas Family Code §232.0135 and that if all other renewal requirements have been met, the license will be renewed when the child support agency notifies the Board it may renew the license. Such amendments will ensure that the section, likewise, reflects the other current extant rules and licensure processes.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal impact to state or local governments as a result of enforcing or administering these amendments as proposed under Texas Government Code §2001.024(a)(4) because the amendments do not impose a cost on state or local governments.

LOCAL EMPLOYMENT IMPACT

Mr. Harper has determined that the proposed amendments would not impact a local economy. Therefore, a local employment impact statement is not required under Texas Government Code §2001.022 and §2001.024(a)(6).

PUBLIC BENEFIT AND COST NOTE

Mr. Harper has determined under Texas Government Code §2001.024(a)(5) that for each of the first five years the proposed amendments would be in effect, the public benefit will be enhanced clarity and uniformity of the board rules.

ECONOMIC IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Mr. Harper has determined there would be no costs or adverse economic effects on small businesses, micro-businesses, or rural communities. Therefore, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT

Mr. Harper has determined that no private real property interests are affected by these proposed amendments and that these amendments do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, these amendments do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Harper has determined under Texas Government Code §2001.0221 that during the first five years the rule would be in effect:

(1) the rule will not create or eliminate a government program;

(2) the rule will not require the creation of new employee positions or the elimination of existing employee positions;

(3) the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create new regulations and will repeal existing regulations;

(6) the rule will not expand certain existing regulations and will not limit certain existing regulations;

(7) the rule will not increase or decrease the number of individuals subject to the rule's applicability; and

(8) the rule will neither positively nor adversely affect this state's economy.

COSTS TO REGULATED PERSONS

Mr. Harper has determined that the rule is not subject to Texas Government Code §2001.0045 as the rule does not impose a cost on regulated persons. In addition, the rule does not impose a cost on another state agency, a special district, or a local government.

ENVIRONMENTAL IMPACT STATEMENT

Mr. Harper has determined that the proposed amendments do not require an environmental impact analysis because the amendments are not major environmental rules under Texas Government Code §2001.0225.

PUBLIC COMMENT

Comments on the proposed amendments may be submitted in writing to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 1801 Congress Ave Ste 10.900, Austin, Texas 78701 or to lea@ptot.texas.gov within 30 days following the publication of this notice in the *Texas Register*. It is requested when sending a comment that individuals include the rule section to which the comment refers and that comments sent by email include "Public Comment" in the email's subject line.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code §454.102, which authorizes the Board to adopt rules to carry out its duties under Chapter 454, and under §454.104, which authorizes the Board to recommend to the Executive Council necessary fees. The amendments are also proposed under Texas Occupations Code §452.154, which authorizes the Executive council to set fees.

CROSS REFERENCE TO STATUTE

No other statutes, articles, or codes are affected by these amendments.

§375.1. Fees.

(a) Fees are prescribed by the Executive Council and may be subject to change by legislative mandate;[~~,~~] refer to 22 Texas Administrative Code [~~TAC~~] §651.1 and §651.3 [~~of the Executive Council Rules~~]. The fees are required to be paid before a license or a renewal is issued. The application fee will be submitted with the application and is non-refundable.

[~~(b) A cashier's check, certified check, or money order must accompany all future payments to the board after an insufficient funds check has been processed by the board.~~]

[~~(c) An applicant for a license shall pay the application fee plus the appropriate license fee.~~]

(b) [~~(d)~~] The Board [~~board~~] will not refund any [~~application~~] fee for an application that is denied [~~or license fee to an applicant who is denied a license~~]. Applicants requesting that the Board [~~board~~] cease the [~~license~~] application process shall forfeit all fees paid. Such requests must be received by the Board [~~board~~] in writing.

(c) [~~(e)~~] There shall be no refunds issued to individuals who have had their licenses suspended or revoked.

[~~(f) Licensees who have had their licenses suspended for failure to pay child support shall pay all applicable fees before licenses will be reissued.~~]

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

Filed with the Office of the Secretary of State on August 18, 2025.

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Ralph A. Harper
Executive Director
Texas Board of Occupational Therapy Examiners
Earliest possible date of adoption: September 28, 2025
For further information, please call: (512) 305-6900

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