EMERGENCY
RULES

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

TITLE 22. EXAMINING BOARDS
PART 23. TEXAS REAL ESTATE COMMISSION
CHAPTER 535. GENERAL PROVISIONS
SUBCHAPTER I. LICENSE RENEWAL
22 TAC §535.91

The Texas Real Estate Commission (TREC or Commission) adopts on an emergency basis amendments to 22 TAC §535.91, Renewal of a Real Estate License, in Chapter 535, General Provisions.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 86th Legislature in SB 37, which took immediate effect upon signing by the Governor, and remove consideration of a student loan default when deciding whether to grant an occupational license.

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

The statute affected by these emergency amendments is Texas Occupations Code, Chapter 1101.

No other statute, code or article is affected by the emergency amendments.

§535.91. Renewal of a Real Estate License.

(a) Renewal application.

(1) A real estate license expires on the date shown on the face of the license issued to the license holder.

(2) If a license holder intends to renew an unexpired license, the license holder must, on or before the expiration date of the current license:

(A) file a renewal application through the online process on the Commission's website or on the applicable form approved by the Commission;

(B) submit the appropriate fee required by §535.101 of this title;

(C) comply with the fingerprinting requirements under the Act; and

(D) comply with the policies established by the Texas Education Code, §57.491 regarding default of a student loan; and

(3) The Commission may request additional information be provided to the Commission in connection with an renewal application.

(b) Renewal Notice.

(1) The Commission will deliver a license renewal notice to a license holder three months before the expiration of the license holder's current license.

(2) If a license holder intends to renew a license, failure to receive a license renewal notice from the Commission does not relieve a license holder from the requirements of this subsection.

(3) The Commission has no obligation to notify any license holder who has failed to provide the Commission with the person's mailing address and email address or a corporation, limited liability company, or partnership that has failed to designate an officer, manager, or partner who meets the requirements of the Act.

(c) Timely renewal of a license.

(1) A renewal application for an individual broker or sales agent is filed timely if it is received by the Commission, or postmarked, on or before the license expiration date.

(2) A renewal application for a business entity broker is filed timely if the application and all required supporting documentation is received by the Commission, or postmarked, not later than the 10th business day before the license expiration date.

(3) If the license expires on a Saturday, Sunday or any other day on which the Commission is not open for business, a renewal application is considered to be filed timely if the application is received or postmarked no later than the first business day after the expiration date of the license.

(d) Initial renewal of sales agent license. A sales agent applying for the first renewal of a sales agent license must:

(1) submit documentation to the Commission showing successful completion of the additional educational requirements of §535.55 of this chapter no later than 10 business days before the day the sales agent files the renewal application; and

(2) fulfill the continuing education requirements of §535.92(a)(1) and (a)(2) of this subchapter and §535.92(a)(3) of this subchapter, if applicable.
(e) Renewal of license issued to a business entity. The Commission will not renew a license issued to a business entity unless the business entity:

1. has designated a corporate officer, an LLC manager, an LLC member with managing authority, or a general partner who:
   1. is a licensed broker in active status and good standing with the Commission;
   2. completes any applicable continuing education required under §535.92;
   3. maintains errors and omissions insurance with a minimum annual limit of $1 million per occurrence if the designated broker owns less than 10 percent of the business entity; and
   4. is currently eligible to transact business in Texas.

(f) Renewal and pending complaints.

1. The Commission may renew the current license of a license holder that has a complaint pending with the Commission, provided the license holder meets all other applicable requirements of this section.

2. Upon completion of the investigation of the pending complaint, the Commission may suspend or revoke the license, after notice and hearing in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001.

(g) Renewal with deferred continuing education.

1. A license holder may renew an active license without completion of required continuing education and may defer completion of any outstanding continuing education requirements for an additional 60 days from the expiration date of the current license if the license holder:
   1. meets all other applicable requirements of this section; and
   2. pays the continuing education deferral fee required by §535.101 of this title at the time the license holder files the renewal application with the Commission.

2. If after expiration of the 60 day period set out in paragraph (1) of this subsection, the Commission has not been provided with evidence that the license holder has completed all outstanding continuing education requirements, the license holder's license will be placed on inactive status.

3. To activate an inactive license, the license holder must meet the requirements of Subchapter L of this Chapter.

4. Credit for continuing education courses for a subsequent licensing period does not accrue until after all deferred continuing education has been completed for the current licensing period.

(h) Student loan default. The Commission will advise a license holder in renewal notices and license application forms that default on a student loan guaranteed by an entity designated by the state of Texas may prevent a renewal of a license. Before the Commission disapproves a license renewal due to a default on a guaranteed student loan, a default on a repayment agreement, or a failure to enter a repayment agreement, the Commission will give notice and provide an opportunity for a hearing in accordance with the provisions of the Administrative Procedure Act, Texas Government Code, §§2001.001 et seq.

(i) Renewal of license for military service member. A license holder on active duty in the United States armed forces is entitled to two years of additional time to renew an expired license without being subject to any increase in fee, any education or experience requirements or examination if the license holder:

1. provides a copy of official orders or other official documentation acceptable to the Commission showing that the license holder was on active duty during the license holder's last renewal period; and

2. pays the renewal application fee in effect when the previous license expired.

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

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Kristen Woman
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For further information, please call: (512) 936-3093

SUBCHAPTER Q. ADMINISTRATIVE PENALTIES

22 TAC §535.191

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to 22 TAC §535.191, Schedule of Administrative Penalties, in Chapter 535, General Provisions.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 86th Legislature in SB 624 as part of the Sunset Review process and take effect on September 1, 2019, and apply to complaints filed on or after that date. The amendments conform the statutory references in this section to those changes.

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

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

§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);
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);
(19) 22 TAC §§535.145 - 535.148; and
(20) 22 TAC §535.156.

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

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Kristen Worman
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SUBCHAPTER R. REAL ESTATE INSpectORS

22 TAC §535.219

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

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 86th Legislature in SB 624 as part of the Sunset Review process and take effect on September 1, 2019, and apply to complaints filed on or after that date. The amendments conform the statutory references in this section to those changes.

The amendments are adopted on an emergency basis under Texas Occupations Code §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102.

The statutes affected by these emergency amendments are Texas Occupations Code, Chapters 1101 and 1102.

No other statute, code or article is affected by the emergency amendments.
§535.219. Schedule of Administrative Penalties.

(a) - (b) (No change.)

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

(1) §1101.652(a)(8) and §1101.652(a)(7);
(2) §1102.118;
(3) §1102.305;
(4) §1102.364;
(5) 22 TAC §535.216(d);
(6) 22 TAC §535.217;
(7) 22 TAC §535.220(a) - (d);
(8) 22 TAC §535.221; and
(9) 22 TAC §535.223.

(d) - (f) (No change.)

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

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SUBCHAPTER T. EASEMENT OR RIGHT-OF-WAY AGENTS

22 TAC §535.403

The Texas Real Estate Commission (TREC) adopts an emergency basis amendments to 22 TAC §535.403, Renewal of Registration, in Chapter 535, General Provisions.

The amendments are adopted on an emergency basis to implement statutory changes enacted by the 86th Legislature in SB 37, which took immediate effect upon signing by the Governor, and remove consideration of a student loan default when deciding whether to grant an occupational license.

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

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

§535.403. Renewal of Registration.

(a) Renewal application.

(1) A registration expires on the date shown on the face of the registration issued to the license holder.

(2) If a license holder intends to renew an unexpired registration, the license holder must, on or before the expiration date of the current registration:

(A) file a renewal application through the online process on the Commission’s website or on the applicable form approved by the Commission;

(B) submit the appropriate fee required by §535.404 of this title (relating to Fees); and

(C) comply with the fingerprinting requirements under the Act;

[D] comply with the policies established by the Texas Education Code, §57.491 regarding default of a student loan;

(b) Failure to provide information requested by the Commission in connection with a renewal application is grounds for disciplinary action under §1101.653 of the Act.

(c) A registrant who fails timely to pay a renewal fee must apply for and receive a new registration in order to act as an easement or right-of-way agent.

(d) The Commission will deliver a registration renewal notice to a license holder three months before the expiration of the license holder’s current registration. Failure to receive the certificate renewal notice does not relieve a certificate holder of the obligation to renew a certificate.

(e) The Commission is not required to notify a business entity such as a corporation, limited liability company, or partnership that has failed to designate an officer, manager, or general partner who meets the requirements of §1101.502 of the Act. The Commission may not renew a registration issued to a business entity that has not designated an officer, manager, or general partner who meets the requirements of the Act.

(f) When the last day of the renewal period falls on a non-business day, a renewal application is timely filed when the application is received not later than the first business day following the last day of the renewal period. “Non-business” days are Saturday, Sunday, and any other day upon which the Commission offices are closed due to a state holiday designated in the General Appropriations Act or by other law.

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

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