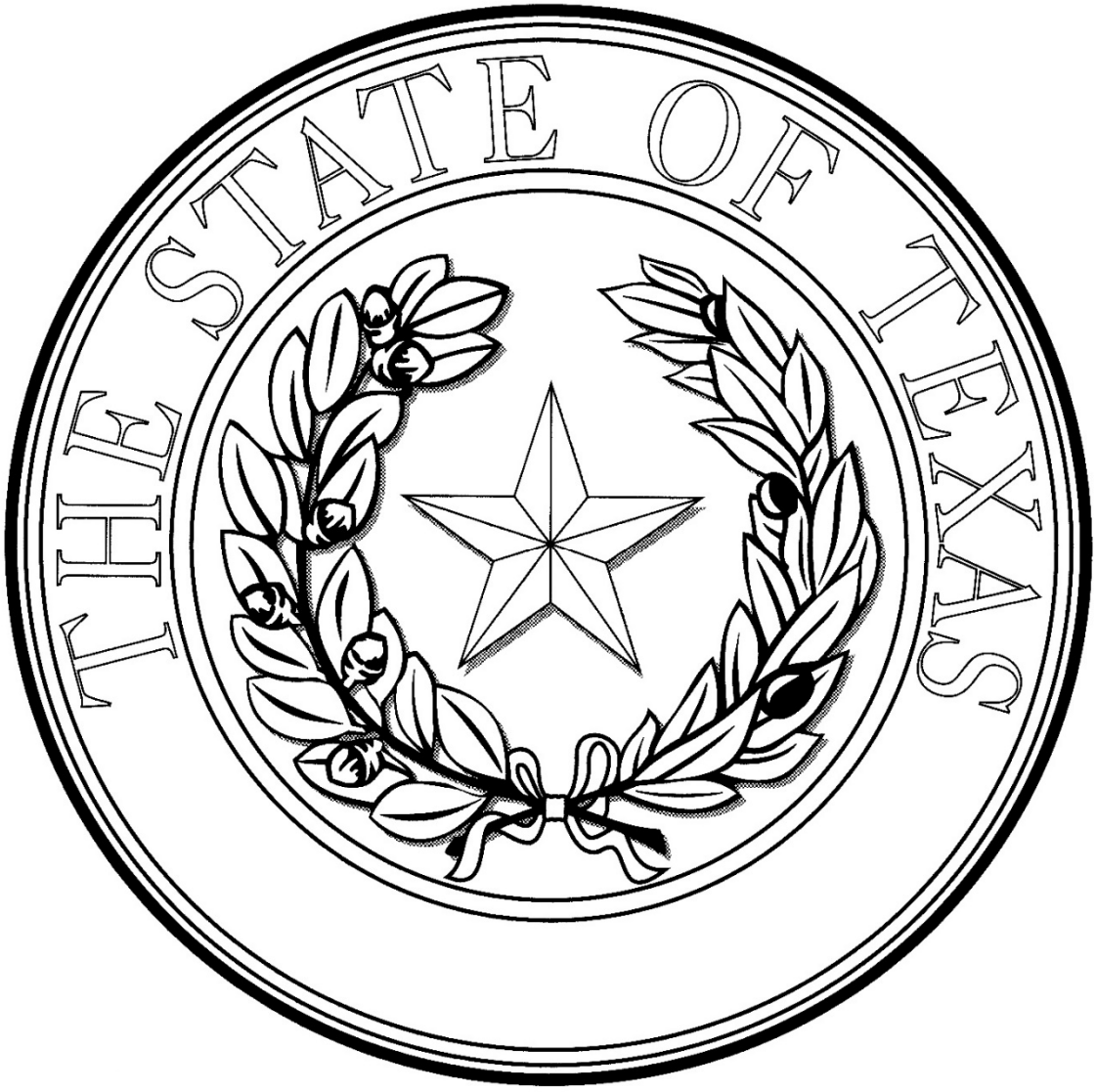
TEXAS REGISTER

Volume 49 Number 36 *September 6, 2024* *Pages 6853 - 7128*





a section of the
Office of the Secretary of State
P.O. Box 12887
Austin, Texas 78711
(512) 463-5561
FAX (512) 463-5569

https://www.sos.texas.gov
register@sos.texas.gov

Texas Register, **(ISSN 0362-4781, USPS 12-0090),** is published weekly (52 times per year) for $340.00 ($502.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P. O. Box 1710, Latham, NY 12110.

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The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Easton, MD and at additional mailing offices.

POSTMASTER: Send address changes to the *Texas Register,* 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

Secretary of State - Jane Nelson

Director - Je T'aime Swindell

Editor-in-Chief - Jill S. Ledbetter

Editors
Catherine E. Bacon
Leti Benavides
Jay Davidson
Briana Franklin
Belinda Kirk
Laura Levack
Joy L. Morgan
Matthew Muir
Breanna Mutschler

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THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for August 22, 2024

Appointed to the San Antonio River Authority Board of Directors for a term to expire December 31, 2027, or until his successor shall be duly elected and qualified, John H. Yochem, Jr. of Goliad, Texas (replacing Alicia Lott Cowley of Goliad, who resigned).

Appointments for August 23, 2024

Designated as chair of the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Arun Agarwal of Dallas, Texas (replacing Vicki A. Hollub of Galveston as chair).

Designated as vice chair of the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Samuel D. "David" Deanda, Jr. of Mission, Texas (replacing Arun Agarwal of Dallas as vice chair).

Appointments for August 26, 2024

Appointed to the Texas Southern University Board of Regents for a term to expire February 1, 2025, Lauren A. Gore of Houston, Texas (replacing Albert H. Myres, Sr. of Liberty, who resigned).

Appointments for August 27, 2024

Appointed to the Texas Commission on the Arts for a term to expire August 31, 2029, Robert M. "Bobby" Lee of Amarillo, Texas (replacing Abidali Z. "Abid" Neemuchwala of Little Elm, who resigned).

Greg Abbott, Governor

TRD-202403996

♦ ♦ ♦

Proclamation 41-4136

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on Tuesday, April 30, 2024, as amended on Thursday, May 2, 2024, Tuesday, May 7, 2024, Wednesday, May 15, 2024, Monday, May 20, 2024, Sunday, May 26, 2024, Thursday, May 30, 2024, Wednesday, June 5, 2024, Thursday, June 13, 2024, Friday, and June 28, 2024, certifying that the severe storms and flooding that began on April 26, 2024, and included heavy rainfall, flash flooding, river flooding, large hail, and hazardous wind gusts caused widespread and severe property damage, injury, or loss of life in Anderson, Angelina, Austin, Bailey, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Bosque, Bowie, Brazos, Brown, Burleson, Burnet, Caldwell, Calhoun, Cass, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Concho, Cooke, Coryell, Dallas, Delta, Denton, DeWitt, Dickens, Eastland, Ellis, Falls, Fannin, Fayette, Freestone, Galveston, Gillespie, Gonzales, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Haskell, Hays, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Hunt, Jasper, Jefferson, Johnson, Jones, Karnes, Kaufman, Kendall, Kerr, Kimble, Knox, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Lynn, Madison, Mason, McCulloch, McLennan, Medina, Menard, Midland, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Shelby, Smith, Somervell, Sterling, Sutton, Tarrant, Terrell, Titus, Travis, Trinity, Tyler, Van Zandt, Walker, Waller, Washington, Wharton, Wichita, Williamson, and Wilson Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of August, 2024.

Greg Abbott, Governor

TRD-202403989

♦ ♦ ♦

Proclamation 41-4137

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on July 8, 2022, as amended and renewed in a number of subsequent proclamations, certifying that exceptional drought conditions posed a threat of imminent disaster in several counties; and

WHEREAS, the Texas Division of Emergency Management has confirmed that those same drought conditions continue to exist in these and other counties in Texas;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby amend and renew the aforementioned proclamation and declare a disaster in Bandera, Bee, Blanco, Brewster, Burnet, Cameron, Comal,

Comanche, Concho, Culberson, Denton, El Paso, Hamilton, Hays, Hidalgo, Hudspeth, Irion, Jeff Davis, Karnes, Kendall, Kent, Kerr, Kinney, Llano, Loving, Lubbock, Maverick, Medina, Midland, Pecos, Presidio, Real, Reeves, Terrell, Travis, Uvalde, Val Verde, Victoria, Willacy, Williamson, Wilson, and Zapata Counties.

Pursuant to Section 418.017 of the Texas Government Code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the Texas Government Code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of August, 2024.

Greg Abbott, Governor

TRD-202403990

♦ ♦ ♦

Proclamation 41-4138

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation in a number of subsequent proclamations, including to modify the list of affected counties and therefore declare a state of disaster for those counties and for all state agencies affected by this disaster; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations; and

WHEREAS, a disaster has been declared at the local level by San Jacinto County;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the aforementioned proclamation and declare a disaster for Aransas, Atascosa, Bee, Brewster, Brooks, Caldwell, Cameron, Chambers, Coleman, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, El Paso, Frio, Galveston, Goliad, Gonzales, Hidalgo, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Jacinto, San Patricio, Schleicher, Shackelford, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala Counties and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed in subsequent proclamations, are in full force and effect.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of August, 2024.

Greg Abbott, Governor

TRD-202403991

♦ ♦ ♦

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Request/Question

Has Ethics Advisory Opinion No. 518 been superseded by the Texas Ethics Commission's argument and the subsequent court order in Lake Travis Citizens Council? Does the definition of "principal purpose" in TEC Rule §20.1(17) apply to a nonprofit corporation, which the TEC and courts have determined should be treated as singular person? (AOR-707.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

TRD-202404005
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

♦ ♦ ♦

Whether a member of the legislator may accept office space contributed by a Limited Liability Company (LLC). Whether a member of the legislator may continue to use contributed office space for a district office through the moratorium on political contributions prescribed by Section 253.034 of the Election Code. (AOR-709.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

TRD-202404007
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

♦ ♦ ♦

What activities may be conducted in a "generic get-out-the-vote" campaign as authorized by Section 253.171 of the Election Code? Must all campaign material list the name and office sought or held or a photograph of each judicial candidate? (AOR-710.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on August 28, 2024.

TRD-202404008
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

♦ ♦ ♦

Whether a lobbyists reports a publicly traded partnership as a corporation or non-corporate entity on the lobby registration form. (AOR-711.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on August 28, 2024.

TRD-202404009
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

♦ ♦ ♦

Would a statewide political party be able to use funds from corporations or labor organizations to pay a contractor's invoice when the contractor

was hired to develop administrative tools and a hiring plan? (AOR-712.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

TRD-202404010
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

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Whether a judicial candidate needs to include on political advertising a disclosure regarding the candidate's acceptance or rejection of voluntary expenditure limits considering the voluntary expenditure limits have been repealed. (AOR-714.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on August 28, 2024.

TRD-202404011
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

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Whether Section 572.054(b) of the Government Code prohibits a former employee of a regulatory agency from receiving compensation for assisting clients applying for and managing grants issued by the requestor's former state agency? (AOR-715.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on August 28, 2024.

TRD-202404012
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

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Whether the "revolving door" provision in Government Code Section 572.054(b) prohibits a former employee of the Texas Commission on Environmental Quality from receiving compensation from a company to provide advice and expert testimony regarding 1) the company's compliance with a TCEQ issued permit, 2) a corrective action plan applicable to the company; and 3) the appropriateness of civil monetary penalties sought from the company. (AOR-716.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

TRD-202404013
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

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Whether an officer of a state agency meets the definition of an "appointed officer" when the officer is not appointed to a term of service specified in statute or state constitution beyond the default maximum term specified by Article XVI, section 30(a) of the Texas Constitution. (AOR-717-CI.)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on August 28, 2024.

TRD-202404014
Jim Tinley
General Counsel
Texas Ethics Commission
Filed: August 28, 2024

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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 4. AGRICULTURE

PART 3. TEXAS FEED AND FERTILIZER CONTROL SERVICE/OFFICE OF THE TEXAS STATE CHEMIST

CHAPTER 65. COMMERCIAL FERTILIZER RULES

The Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist proposes to amend TAC Title 4, Part 3, Chapter 65, Subchapter B, §65.13 concerning Waste Products Distributed as Fertilizers as well as TAC Title 4, Part 3, Chapter 65, Subchapter C, §65.24 concerning Warnings or Cautionary Statements Required. The changes are to §65.13 by adding subsection (c) and §65.24 by adding section (4). This prevents application of forever chemicals founds in waste products from permanently contaminating farm ground and water systems in Texas.

Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist, has assessed that approximately 34 firms may be affected by the updated rules and that approximately 100 tons of waste products sold as fertilizer are used in the state.

Dr. Herrman concludes that for the first five-year period there will be no fiscal implication for state or local government as a result of enforcing or administering the rule.

Public Benefit Cost Statement

Dr. Herrman has concluded that during the first five years the rule will be in effect the rule will have a positive impact on Small Businesses, Microbusinesses, and Rural Communities by preventing per- and polyfluoroalkyl substances (PFAS) and other adulterants in waste products sold as commercial fertilizer from contaminating agricultural land in rural communities.

Dr. Herrman has concluded that during the first five years the rule will be in effect there will be no effect on local employment, as it does not require the creation of new employee positions or the elimination of existing employee positions.

Dr. Herrman has also determined that the benefit afforded to the public includes avoiding contamination of the environment and life systems in Texas through the use of waste products distributed as fertilizers. The principle thrust of this rule is to avoid contamination by forever chemicals with known deleterious impact to the environment and life systems including, but not limited to, per and polyfluoroalkyl substances. Compliance cost associated with this regulation is estimated at $50 per ton for analytical testing and risk management associated with preventing adulteration of the environment and harming life systems from adulterated waste products distributed as fertilizers.

Government Growth Impact Statement

During the first five years the rule will be in effect, the proposed rule neither creates nor eliminates a government program; implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency; the proposed rule does not require an increase or decrease in fees paid to the agency; the proposed rule creates a new regulation, prohibiting application of waste products sold as commercial fertilizer containing adulterants; the proposed rule expands an existing regulation; the proposed rule neither increases nor decreases the number of individuals subject to the rule's applicability; and the proposed rule positively affects this state's economy.

Comments on the proposal may be submitted to Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist, P.O. Box 3160, College Station, Texas 77841-3160; by fax at (979) 845-1389; or by e-mail at tjh@otsc.tamu.edu.

SUBCHAPTER B. PERMITTING AND REGISTRATION

4 TAC §65.13

Statutory Authority: The amendment to §65.13 is proposed under the Texas Agriculture Code 63, §63.004 which provides the Texas Feed and Fertilizer Control Service with the authority to promulgate rules relating to the distribution of commercial fertilizers. The amendment also aligns with Texas Agriculture Code 63, §63.001 as it relates to terms and definitions adopted by the Association of American Plant Food Control Officials in its last published official publication.

Cross Reference: The Texas Agriculture Code, Chapter 63, the Texas Commercial Fertilizer Control Act, Subchapter I, §63.143, is affected by the proposed amendment.

§65.13. Waste Products Distributed as Fertilizers.

(a) No person shall sell, offer or expose for sale, or distribute in this state, any industrial or municipal product originally designated as a waste by any governmental agency -- federal, state or local -- intended for, promoted or represented, advertised as or distributed as a fertilizer as defined in the Texas Agriculture Code, Chapter 63, §63.002 prior to registering the same as specified in §63.031.

(b) In addition to other requirements of the Law and the Rules, applications for registration of sewage, sludge, and septage or mixed fertilizer containing same shall be accompanied by the following:

(1) A detailed description of the facilities, equipment and method of manufacture to be used in processing, manufacturing and testing of the product.

(2) A sampling schedule, a full description of all tests made prior to application for registration and the results of such tests which shall include, but not necessarily be limited to, those pollutants and pathogens required to be tested by United States Environmental Protection Agency Code of Federal Regulations, Title 40 CFR: Protection of Environment, Part 503 Standards for the Use or Disposal of Sewage Sludge.

(3) A schedule for periodic testing which initially shall be conducted on each production run no less than once (1) each calendar quarter.

(A) Less frequent testing may be allowed where data show continued uniformity and a consistent margin of compliance.

(B) More frequent testing shall be required where the data show the process is not under control.

(C) Sequential testing shall again be required when periodic analysis or any other information available to the manufacturer indicates that:

(i) changes are made in the manufacturing process; or

(ii) new or expanded sources of the raw ingredients are used.

(4) A statement that any product consisting in whole or part of sewage, septage or sludge meets the CFR Part 503 and specifically it meets the requirements of 503.32(a) and one of the vector attraction reduction requirements in 503.33(b)(1) through 503.33(b)(8).

(c) The waste products shall not contain any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label.

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 23, 2024.

TRD-202403912

Tim Herrman

Texas State Chemist

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Earliest possible date of adoption: October 6, 2024

For further information, please call: (979) 845-1121

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SUBCHAPTER C. LABELING

4 TAC §65.24

Statutory Authority: The amendment to §65.24 is proposed under the Texas Agriculture Code 63, §63.004 which provides the Texas Feed and Fertilizer Control Service with the authority to promulgate rules relating to the distribution of commercial fertilizers. The amendment also aligns with Texas Agriculture Code 63, §63.001 as it relates to terms and definitions adopted by the Association of American Plant Food Control Officials in its last published official publication.

Cross Reference: The Texas Agriculture Code, Chapter 63, the Texas Commercial Fertilizer Control Act, Subchapter I, §63.143, is affected by the proposed amendment.

§65.24. Warnings or Cautionary Statements Required.

A warning or cautionary statement is required on any fertilizer product which:

(1) contains 0.10% or more boron in water soluble form. The statement shall include:

(A) the word "Warning" or "Caution" conspicuously displayed;

(B) the crop(s) for which the fertilizer is recommended; and

(C) that the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s);

(2) contains 0.001% or more of molybdenum. The statement shall include:

(A) the word "Warning" or "Caution" conspicuously displayed; and

(B) that the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum which are toxic to ruminant animals;

(3) when applied according to the directions for use adds to the land levels of trace elements exceeding the limits set forth in Table 2, subparagraph (B) of this paragraph.

(A) The statement, conspicuously displayed, shall read "WARNING: Application according to the directions for use EXCEEDS the allowable limits of certain trace elements which can be applied to one acre of land in a calendar year."

(B) Table 2. Cumulative Element Loading Rate When Conforming to §65.17(d)(1).
Figure: 4 TAC §65.24(3)(B) (No change.)

(4) Contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water.

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 23, 2024.

TRD-202403913

Tim Herrman

Texas State Chemist

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Earliest possible date of adoption: October 6, 2024

For further information, please call: (979) 845-1121

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TITLE 7. BANKING AND SECURITIES

PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 55. RESIDENTIAL MORTGAGE LOAN ORIGINATORS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes new rules in 7 TAC Chapter 55: §§55.1 - 55.6, 55.100 -

55.114, 55.200 - 55.205, 55.300 - 55.303, 55.310, and 55.311 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators, affect mortgage bankers registered with SML and individual residential mortgage loan originators (originators) licensed by SML under Finance Code Chapter 157.

Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Originator Rules from Chapter 81 to Chapter 55

SML has determined it should reorganize its rules concerning originators by relocating the rules to Chapter 55, a vacant chapter, and devoting such chapter exclusively to rules affecting originators. The proposed rules, if adopted, would effectuate these changes.

Changes Concerning General Provisions (Subchapter A)

The proposed rules: in §55.2, Definitions, adopt new definitions for "E-Sign Act," "making a residential mortgage loan," "person," "SML," "State Examination System," and "trigger lead," while eliminating definitions for "Commissioner's designee," and "Department"; in §55.3, Formatting Requirements for Notices, adopt formatting requirements for the various disclosures an originator is required to make; in §55.4, Electronic Delivery and Signature of Notices, clarify that any notice or disclosure made by an originator may be delivered and signed electronically; and, in §55.5, Computation of Time, clarify how time periods measured in calendar days are computed.

Changes Concerning Licensing (Subchapter B)

The proposed rules: in §55.100, Licensing Requirements, clarify when an originator license is required (including as it relates to a loan processor or underwriter who is an independent contractor); in §55.102, Fees, clarify that the license fee charged by SML is exclusive of fees charged by the Nationwide Multistate Licensing System (NMLS), and clarify that an insufficient funds fee under Finance Code §157.013(d) may be charged if the originator makes a payment to SML by automated clearing house and that payment fails; in §55.103, Renewal of the License, clarify that a license approved with a pending deficiency is a conditional license and requires the originator to resolve the deficiency within 30 days after the date the license is approved, and clarify that, if a license is not renewed within the reinstatement period provided by Finance Code §157.016, the individual must apply for a new license; in §55.105, Conditional License, clarify the terms and conditions under which a conditional license may be granted; in §55.106, Surrender of the License, clarify circumstances under which SML may not grant a request made by the originator to surrender his or her license; in §55.107, Sponsorship of the Originator, clarify that an originator may be sponsored by more than one mortgage company or mortgage banker, and establish requirements for an originator sponsored by more than one mortgage company or mortgage banker; in §55.108, Required Education, clarify that the pre-licensing examination required by Finance Code §180.057 means the uniform national examination approved by NMLS on or after April 1, 2013; and, in §55.109, Temporary Authority, clarify that the maximum duration for temporary authority under Finance Code §180.0511 is 120 days.

Changes Concerning Duties and Responsibilities (Subchapter C)

The proposed rules: in §55.200, Required Disclosures, remove the requirement that the disclosure to consumers required by Finance Code §156.004(a) or §157.0021(a) be signed by the originator and the mortgage applicant; in §55.202, Fraudulent, Misleading, or Deceptive Practices and Improper Dealings, clarify that an originator commits a violation if the originator knowingly misrepresents the lien position of a residential mortgage loan, create requirements concerning the use of trigger leads, clarify that an originator commits a violation if the originator solicits a consumer on the federal do-not-call registry, clarify that an originator commits a violation if the originator issues a conditional pre-qualification letter or conditional approval letter that is inaccurate, erroneous, or negligently-issued, and clarify that an originator commits a violation if the originator acts as an originator when his or her license is inactive; in §55.204, clarify that the books and records of an originator must be maintained by the mortgage company or mortgage banker sponsoring his or her license, and require that the originator work diligently and cooperatively with the mortgage company or mortgage banker to fulfill such requirements; and, in §55.205, Mortgage Call Reports, clarify that mortgage call reports are filed by the mortgage company or mortgage banker sponsoring the originator's license, and remove that seeming requirement.

Changes Concerning Supervision and Enforcement (Subchapter D)

The proposed rules: in §55.300, Examinations, provide that examinations are conducted using the State Examination System, and that SML may participate in, leverage, or accept an examination conducted by another state agency or regulatory authority; in §55.302, Confidentiality of Examination, Investigation, and Inspection Information, clarify the confidentiality of information arising from an examination, investigation, or inspection by SML; in §55.303, Corrective Action, clarify when SML may direct an originator to voluntarily take corrective action, and creating requirements for refunds made to consumers; in §55.310, Appeals, establish various deadlines by which an originator or other individual subject to an enforcement action must appeal; and, in §55.311, Hearings, clarify how hearing costs assessed against an individual under Finance Code §157.017(f) are calculated.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to 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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing originators to be easier to find by members of the public; and, to better protect members of the public who are consumers seeking a residential mortgage loan from the wrongful conduct of an originator licensed by SML.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency. The proposed rules related to Changes Concerning Licensing (Subchapter B) may result in additional fees paid to SML in connection with the insufficient funds fee for failed automated clearing house payments sent to SML, as discussed in such section; however, those fees may be avoided entirely and therefore an increase in fees is not required; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning General provisions (Subchapter A), Changes Concerning Licensing (Subchapter B), Changes Concerning Duties and Responsibilities (Subchapter C), and Changes Concerning Supervision and Enforcement (Subchapter D) establish various rule requirements, as discussed in such sections; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning Duties and Responsibilities (Subchapter C) have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§55.1 - 55.6

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(a), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§55.1. Purpose and Applicability.

This chapter governs SML's administration and enforcement of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act (other than Subchapter C), and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 (Texas SAFE Act), concerning the licensing and conduct of residential mortgage loan originators. This chapter applies to individuals licensed by SML as a residential mortgage loan originator or those required to be licensed, except for individuals engaged in authorized activity subject to the authority of the regulatory official under Finance Code §180.251(c).

§55.2. Definitions.

For purposes of this chapter, and in SML's administration and enforcement of Finance Code Chapters 157 (other than Subchapter C) and 180, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Application," as used in Finance Code §157.002(6) and §180.002(19), and paragraphs (7) and (18) of this section means

a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, or the mortgage loan amount.

(2) "Commissioner" means the savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(3) "Compensation" includes salaries, bonuses, commissions, and any financial or similar incentive.

(4) "Dwelling" means a residential structure that contains one to four units and is attached to residential real estate. The term includes an individual condominium unit, cooperative unit, or manufactured home, if it is used as a residence.

(5) "E-Sign Act" refers to the federal Electronic Signature in Global and National Commerce Act (15 U.S.C. §7001 et seq.).

(6) "Making a residential mortgage loan," or any similar derivative or variation of that term, means when a person determines the credit decision to provide the residential mortgage loan, or the act of funding the residential mortgage loan or transferring money to the borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the residential mortgage loan.

(7) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator in response to a solicitation) to obtain a residential mortgage loan and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., the Fannie Mae Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application, as provided by paragraph (1) of this section.

(8) "Mortgage banker" has the meaning assigned by Finance Code §157.002.

(9) "Mortgage company" means, for purposes of this chapter, a "residential mortgage loan company," as defined by Finance Code §157.002.

(10) "Nationwide Multistate Licensing System" or "NMLS" has the meaning assigned by Finance Code §157.002 and §180.002 in defining "Nationwide Mortgage Licensing System and Registry."

(11) "Offers or negotiates the terms of a residential mortgage loan," as used in Finance Code §157.002(6) and §180.002(19), means, among other things, when an individual:

(A) arranges or assists a mortgage applicant or prospective mortgage applicant in obtaining or applying to obtain, or otherwise secures an extension of consumer credit for another person, in connection with obtaining or applying to obtain a residential mortgage loan;

(B) presents for consideration by a mortgage applicant or prospective mortgage applicant particular residential mortgage loan terms (including rates, fees, and other costs); or

(C) communicates directly or indirectly with a mortgage applicant or prospective mortgage applicant for the purpose of reaching a mutual understanding about particular residential mortgage loan terms.

(12) "Originator" has the meaning assigned by Finance Code §157.002 and §180.002 in defining "residential mortgage loan originator." Paragraphs (11) and (18) of this section do not affect the applicability of such statutory definition. Individuals who are specifically excluded under such statutory definition, as provided by Finance Code §180.002(19)(B), are excluded under this definition and for purposes of this chapter. Persons who are exempt from licensure as provided by Finance Code §180.003 are exempt for purposes of this chapter, except as otherwise provided by Finance Code §180.051.

(13) "Person" has the meaning assigned by Finance Code §180.002.

(14) "Residential mortgage loan" has the meaning assigned by Finance Code §157.002 and §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan secured by a structure that is suitable for occupancy as a dwelling but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as a residence.

(15) "Residential real estate" has the meaning assigned by Finance Code §180.002 and includes both improved or unimproved real estate or any portion of or interest in such real estate on which a dwelling is or will be constructed or situated.

(16) "SML" means the Department of Savings and Mortgage Lending.

(17) "State Examination System" or "SES" means an online, digital examination system developed by the Conference of State Bank Supervisors that securely connects regulators and regulated entities on a nationwide basis to facilitate the examination process.

(18) "Takes a residential mortgage loan application," as used in Finance Code §157.002(6) and §180.002(19) in defining "residential mortgage loan originator" means when an individual receives a residential mortgage loan application for the purpose of facilitating a decision on whether to extend an offer of residential mortgage loan terms to a mortgage applicant or prospective mortgage applicant, whether the application is received directly or indirectly from the mortgage applicant or prospective mortgage applicant, and regardless of whether or not a particular lender has been identified or selected.

(19) "Trigger Lead" means information concerning a consumer's credit worthiness (consumer report) compiled by a credit reporting agency (consumer reporting agency), obtained in accordance with the federal Fair Credit Reporting Act (15 U.S.C. §1681b(c)(1)(B)) that is not initiated by the consumer but, instead, is triggered by an inquiry to a consumer reporting agency in response to an application for credit initiated by the consumer in a separate transaction. The term does not include a consumer report obtained by a mortgage company licensed by SML or a mortgage banker registered with SML in response to an application for credit made by a consumer with that mortgage company or mortgage banker or that is otherwise authorized by the consumer.

(20) "UETA" refers to the Texas Uniform Electronic Transactions Act, Business & Commerce Code Chapter 322.

§55.3. Formatting Requirements for Notices.

Any notice or disclosure (notice) required by Finance Code Chapters 157 or 180, or this chapter, must be easily readable. A notice is deemed to be easily readable if it is in at least 12-point font and uses a typeface specified by this section. A font point generally equates to 1/72 of an inch. If Finance Code Chapters 157 or 180, or this chapter, prescribes a form for the notice, the notice must closely follow the font types used in the form. For example, where the form uses bolded, underlined, or "all caps" font type, the notice must be made using those font types. The following typefaces are deemed to be easily readable for purposes

of this section (list is not exhaustive and other typefaces may be used; provided, the typeface is easily readable):

(1) Arial;

(2) Aptos;

(3) Calibri;

(4) Century Schoolbook;

(5) Garamond;

(6) Georgia;

(7) Lucinda Sans;

(8) Times New Roman;

(9) Trebuchet; and

(10) Verdana.

§55.4. Electronic Delivery and Signature of Notices.

Any notice or disclosure required by Finance Code Chapters 157 or 180, or this chapter, may be provided and signed in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The UETA and E-Sign Act include requirements for electronic signatures and delivery.

§55.5. Computation of Time.

The calculation of any time period measured in days by Finance Code Chapters 157 or 180, or this chapter, is made using calendar days, unless clearly stated otherwise. In computing a period of calendar days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.

§55.6. Enforceability of Liens.

A violation of Finance Code Chapters 157 or 180, or this chapter, does not render an otherwise lawfully taken lien invalid or unenforceable.

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 26, 2024.

TRD-202403925
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LICENSING

7 TAC §§55.100 - 55.114

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act. §55.100 is also proposed under the authority of, and to implement, Finance Code: §§156.002(4-a), 156.004(a), 156.105(a), 157.012, 157.0021, 157.02012(a), 180.051, and 180.152. §55.101 is also proposed under the authority of, and to implement, Finance Code: §§157.013, 157.015, and §180.053. §55.102 is also proposed under the authority of, and to implement, Finance Code: §§157.013, 157.015, 180.058, and 180.061(2). §55.103 is also proposed under the authority of, and to implement, Finance Code: §157.0141, 157.015, 157.016, 180.059, and 180.060. §55.104 is also proposed under the authority of, and to implement, Finance Code §180.061. §55.105 is also proposed under the authority of, and to implement, Finance Code §157.0141. §55.106 is also proposed under the authority of, and to implement, Finance Code §180.061(4). §55.107 is also proposed under the authority of, and to implement, Finance Code: §157.019 and §180.061(4). §55.108 is also proposed under the authority of, and to implement, Finance Code: §§180.056, 180.057, and 180.060. §55.109 is also proposed under the authority of, and to implement, Finance Code §180.0511. §55.110 is also proposed under the authority of, and to implement, Occupations Code Chapter 55. §55.111 and §55.112 are also proposed under the authority of, and to implement: Finance Code: §§157.0132, 180.054, 180.055, and 180.061(1); and Government Code §411.1385. §55.113 is also proposed under the authority of, and to implement, Occupations Code §53.025. §55.114 is also proposed under the authority of, and to implement, Occupations Code Chapter 53, Subchapter D.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§55.100. Licensing Requirements.

License Required. An individual, unless exempt as provided by Finance Code §157.0121 or §180.003, or acting under temporary authority as provided by Finance Code §180.0511 and §55.109 of this title (relating to Temporary Authority), is required to be licensed as an originator under Finance Code Chapter 157 if the individual acts or attempts to act in the capacity of an originator concerning a loan or prospective loan secured or designed to be secured by residential real estate located in Texas, including, but not limited to:

(1) representing or holding that individual out to the public through advertising or other means of communication as a "loan officer," "mortgage consultant," "mortgage broker," "loan modification/refinance consultant," or "residential mortgage loan originator," or otherwise representing that the individual can or will perform residential mortgage loan origination services as an originator;

(2) signing a residential mortgage loan application as the originator (e.g., signing the "Loan Originator Information" section of the Fannie Mae Form 1003 Uniform Residential Loan Application; which is deemed to be a certification by the originator that he or she took the residential mortgage loan application);

(3) providing disclosures to a mortgage applicant or prospective mortgage applicant or discussing or explaining such disclosures (an individual who prepares a disclosure at the direction and under the supervision of a licensed originator who does not send the disclosure to or discuss the disclosure with the mortgage applicant or prospective mortgage applicant and does not sign the disclosure is deemed not to have provided a disclosure for purposes of this paragraph), including:

(A) the disclosures required by Finance Code §156.004 or §157.0021, and §55.200(a) of this title (relating to Required Disclosures);

(B) the good faith estimate (Regulation X, 12 C.F.R. §1024.7), integrated loan estimate disclosure (Regulation Z, 12 C.F.R. §1026.37), or similar; and

(C) the disclosure for acting in the dual capacity of an originator and real estate broker, sales agent, or attorney, as described by Finance Code §157.024(a)(10);

(4) determining the lender or investor to which the prospective residential mortgage loan will be submitted;

(5) issuing or signing a conditional pre-qualification letter or conditional approval letter, or similar, as specified by Finance Code §156.105 and §157.02012, and §55.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters); and

(6) being a loan processor or underwriter who is an independent contractor, as provided by Finance Code §180.051(b). An individual working for a mortgage company licensed by SML or a mortgage banker registered with SML, whose compensation for federal income tax purposes is not reported on a W-2 form (e.g., a self-employed worker who is issued an IRS Form 1099-NEC), that acts as a loan processor or underwriter, is deemed to be an independent contractor loan processor or underwriter for purposes of Finance Code §180.051(b) and must be licensed as an originator. All individuals working for a mortgage company that is an independent loan processor underwriter company, regardless of how their income is documented (including W-2 employees), who act as a loan processor or underwriter or otherwise perform work in connection with the provision of loan processing or underwriting services by the company, are deemed to be independent contractors for purposes of Finance Code §180.051(b) and must be licensed as an originator.

§55.101. Applications for Licensure.

(a) NMLS. Applications for licensure must be submitted through NMLS and must be made using the current form prescribed by NMLS. SML has published application checklists on the NMLS Resource Center website (nationwidelicensingsystem.org; viewable on the "State Licensing Requirements" webpage) which outline the requirements to submit an application. Applicants must comply with requirements in the checklist in making the application.

(b) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation deemed necessary or appropriate to determine that the licensing requirements of Finance Code Chapters 157 and 180 are met.

(c) Incomplete Filings; Deemed Withdrawal. An application is complete only if all required information and supporting documentation is included and all required fees are received. If an application is incomplete, SML will send written notice to the applicant specifying the additional information, documentation, or fee required to render the application complete. The application may be deemed withdrawn and any fee paid will be forfeited if the applicant fails to provide the additional information, documentation, or fee within 30 days after the date written notice is sent to the applicant as provided by this subsection.

§55.102. Fees.

(a) License Fees. The license fee is determined by the Commissioner in an amount not to exceed the maximum amount specified by Finance Code §157.013(b)(1), exclusive of fees charged by NMLS, as described in subsection (b) of this section, and exclusive of the recovery fund fee required by Finance Code §157.013(b)(2). The Commissioner may establish different fee amounts for a new license versus renewal of the license. The current fee is set in NMLS and posted on SML's website (sml.texas.gov). The Commissioner may change the fee at any time; provided, any fee increase is not effective until notice has been posted on SML's website for at least 30 days. The license fee must be paid in NMLS.

(b) NMLS Fees. NMLS charges various fees to process the application. Such fees are determined by NMLS and must be paid by the applicant at the time he or she files the application. The current fees are set in NMLS and posted on the NMLS Resource Center website (nationwidelicensingsystem.org). Specifically, NMLS charges the following types of fees:

(1) application processing fee;

(2) credit report fee; and

(3) criminal background check fee.

(c) All fees are nonrefundable and nontransferable.

(d) Insufficient Funds Fee. The Commissioner may collect a fee in an amount determined by the Commissioner not to exceed $50 for any returned check, credit card chargeback, or failed automated clearing house (ACH) payment. A fee assessed under this subsection will be invoiced in NMLS and must be paid in NMLS.

§55.103. Renewal of the License.

(a) A license may be renewed on:

(1) timely submission of a completed renewal application (renewal request) in NMLS together with payment of all required fees;

(2) a determination by SML that the originator continues to meet the minimum requirements for licensure, including the requirements of Finance Code §§157.012(c), 157.015(g), and 180.055; and

(3) completion of the continuing education required by Finance Code §180.060 and §55.108 of this title (relating to Required Education) as reflected in NMLS.

(b) Application of §55.101. A renewal request is a license application subject to the requirements of §55.101 of this title (relating to Applications for Licensure). A renewal request withdrawn under §55.101(c) of this title will be rejected in NMLS.

(c) Commissioner's Discretion to Approve with a Deficiency; Conditional License. The Commissioner may, in his or her sole discretion, approve a renewal request with one or more deficiencies the Commissioner deems to be relatively minor and allow the originator to continue conducting regulated activities while the originator works diligently to resolve the deficiency. A renewal request approved by the Commissioner under this subsection will be assigned the NMLS license status "Approved - Deficient." Approval under this subsection does not relieve the originator of the obligation to resolve the deficiencies. A license approved under this subsection is deemed to be a conditional license for which the originator, in order to maintain the license, must resolve the deficiencies within 30 days after the date the license is approved, unless an extension of time is granted by the Commissioner. Failure to timely resolve the deficiencies constitutes grounds for the Commissioner to suspend or revoke the license.

(d) Reinstatement. This section applies to an individual seeking reinstatement of an expired license (assigned the license status "Terminated - Failed to Renew") during the reinstatement period described by Finance Code §157.016 and must be construed accordingly. An originator license cannot be renewed beyond the reinstatement period; instead, the individual must apply for a new license and comply with all current requirements and procedures governing issuance of a new license.

§55.104. NMLS Records; Notices Sent to the Originator.

(a) NMLS License Status. SML is required to assign a status to the license in NMLS. The license status is displayed in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org). SML is limited to the license status options available in NMLS. The NMLS Resource Center website (nationwidelicensingsystem.org) describes the available license status options and their meaning.

(b) Amendments to License Records Required. Unless Finance Code §157.019 applies and requires additional notice, an originator must amend his or her NMLS license records (MU4 filing) within 10 days after the date of any material change affecting any aspect of the MU4 filing, including, but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to SML establishing the name change);

(2) phone number;

(3) email address (including his or her NMLS account email address, as described by subsection (d)(1) of this section);

(4) mailing address:

(5) residential history;

(6) employment history; and

(7) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(c) Amendments Requiring New Credit History Check. An originator amending his or her MU4 filing to make a financial disclosure is deemed to have authorized SML to retrieve a current copy of his or her credit report, as provided by Finance Code §157.0132 and §55.111 of this title (relating to Background Checks), and the originator must further amend his or her MU4 filing to formally consent to and request such credit report in NMLS, if requested by SML.

(d) Amendments Requiring New Criminal Background Check. An originator amending his or her MU4 filing to make a criminal disclosure is deemed to have authorized SML to perform an additional criminal background check in accordance with Finance Code §157.0132 and §55.111 of this title, and the originator must further amend his or her MU4 filing to formally consent to and request such criminal background check in NMLS, if requested by SML.

(e) Notices Sent to the Originator. Any correspondence, notification, alert, message, official notice, or other written communication from SML will be sent to the originator in accordance with this subsection using the originator's current contact information of record in NMLS unless another method is required by other applicable law.

(1) Service by Email. Service by email is made using the email address the originator has designated for use with his or her NMLS account (a/k/a the "NMLS account email address" or "individual account email address"). The NMLS account email address is the same email address to which NMLS-generated notifications are sent. Service by email is complete on transmission of the email to the license holder's email service provider; provided, SML does not receive a "bounce back" notification, or similar, from the email service provider indicating that delivery was not effective. An originator must monitor the email account designated as his or her NMLS account email address and ensure that emails from SML or system notifications from NMLS are not lost in a "spam folder" or similar, or undelivered due to intervention by a "spam filter" or similar. An originator is deemed to have constructive notice of any emails sent by SML to the email address described by this paragraph. An originator is further deemed to have constructive notice of any NMLS system notifications sent to him or her by email.

(2) Service by Mail. Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the originator by mail and the document communicates a deadline by or a time during which the originator must perform some act, such deadline or time period for action is extended by 3 days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

§55.105. Conditional License.

(a) Conditional License; Terms and Conditions. The Commissioner may, in his or her sole discretion, issue a license on a conditional basis. A conditional license will be assigned the license status "Approved - Conditional" in NMLS. Reasonable terms and conditions for a conditional license include:

(1) requiring the originator to undergo additional credit checks or provide evidence of satisfaction concerning a debt, judgment, lien, child support obligation, or other financial delinquency affecting his or her financial condition;

(2) requiring the originator to undergo additional criminal background checks or provide information on a periodic basis or upon request concerning the status of a pending criminal proceeding that might affect his or her eligibility for the license;

(3) requiring the originator to take other specific action or provide other specified information to address a known deficiency; and

(4) requiring the originator to surrender the license upon the occurrence of an event that would render the originator ineligible for the license.

(b) Probated Suspensions and Revocations. A license subject to a probated suspension or revocation is deemed to be a conditional license.

(c) Conditional License in Lieu of Denial. The Commissioner may issue a license on a conditional basis in lieu of seeking denial of the license where the Commissioner determines the individual applying for the license has the capacity to resolve the deficiency serving as grounds for the denial in a reasonable period of time. The granting of a license under this subsection is a voluntarily forbearance from seeking denial of the license and does not operate as a waiver by the Commissioner of any grounds he or she has to seek denial of the license. The Commissioner is under no obligation to continue the license on a conditional basis and may seek denial in the future based on the same or similar circumstances that existed at the time the conditional license was granted.

§55.106. Surrender of the License.

(a) Surrender Request. An originator may seek surrender of the license by filing a license surrender request (request) in NMLS. The request must be made using the current form prescribed by NMLS. SML will review the request and determine whether to grant it. SML may not grant the request if, among other reasons:

(1) the originator is the subject of a pending or contemplated examination, inspection, investigation, or disciplinary action;

(2) the originator is in violation of an order of the Commissioner; or

(3) the originator has failed to pay any administrative penalty, fee, charge, or other indebtedness owed to SML.

(b) Inactive Status Pending Surrender. If SML does not grant the request or requires additional time to consider the request, the request will be left pending while the issue preventing SML from granting the request is resolved or lapses. During this time, the originator's license will be assigned the license status "Approved - Inactive" in NMLS.

§55.107. Sponsorship of Originator.

(a) Sponsorship Required. In order to act in the capacity of an originator, an originator's license must be sponsored in NMLS by a mortgage company licensed by SML or a mortgage banker registered with SML. To establish sponsorship by a mortgage company or mortgage banker, the originator must amend his or her NMLS license records (MU4 filing) to reflect employment by such mortgage company or mortgage banker and grant such mortgage company or mortgage banker access to his or her license records to allow the mortgage company or mortgage banker to register a relationship with the originator in NMLS. The mortgage company or mortgage banker must make corresponding filings in NMLS to establish such sponsorship. Sponsorship is not effective until the mortgage company's or mortgage banker's sponsorship request has been reviewed and approved by SML. An originator must not act or attempt to act in the capacity of an originator on behalf of a mortgage company or mortgage banker until sponsorship with such mortgage company or mortgage banker has been established and is effective. Information about how to file for sponsorship is available on the NMLS Resource Center website (nationwidelicensingsystem.org).

(b) Number of Sponsorships. An originator may be sponsored by more than one mortgage company or mortgage banker if:

(1) the originator clearly identifies to the mortgage applicant the sponsoring entity or entities on whose behalf the originator is acting prior to taking an application;

(2) the application clearly states the sponsoring entity on whose behalf the originator is acting (e.g., in the "Loan Originator Information" section of the Fannie Mae 1003 Uniform Residential Loan Application). The mortgage applicant may apply with more than one sponsoring entity, provided, there are separate applications for each such entity that clearly identifies the sponsoring entity to which the application was submitted;

(3) the authorization forms, disclosures, loan estimates, pre-qualification letters, conditional approval letters, closing disclosures, and other materials provided to the mortgage applicant clearly identify the mortgage company or mortgage banker providing residential mortgage loan origination services in the transaction;

(4) the originator does not misrepresent or misconstrue to the mortgage applicant the mortgage company or mortgage banker providing residential mortgage loan origination services in the transaction;

(5) the originator discloses to his or her sponsoring entities the existence the originator's multiple sponsorships;

(6) the originator does not steer the mortgage applicant to a sponsoring entity offering terms less favorable to the mortgage applicant and that might have the effect of increasing the originator's compensation; and

(7) the originator is only compensated for services actually performed and does not share or split any fee.

(c) Inactive License Status Pending Sponsorship. An applicant may be issued a license in an inactive status if the applicant has met all requirements for licensure except the requirement that the originator be sponsored by an appropriate entity, as provided by Finance Code §157.012(a)(1). While in an inactive status, an originator must not act in the capacity of an originator and must continue to meet the minimum requirements for licensure. A license in an inactive status is assigned the license status "Approved - Inactive" in NMLS.

(d) Termination of Sponsorship. Sponsorship may be terminated by the mortgage company or mortgage banker, or the originator. If sponsorship is terminated, the party terminating the sponsorship must immediately notify SML of the termination by making a filing in NMLS to show the sponsorship as terminated in the system, as provided by Finance Code §156.211 and §157.019.

(e) Failure to Maintain Sponsorship; Inactive Status. If an originator's license does not maintain sponsorship by a mortgage company or mortgage banker, the license will revert to an inactive status ("Approved - Inactive") until a new sponsorship becomes effective, during which time the originator must not act or attempt to act in the capacity of an originator. An originator may voluntarily place his or her license in an inactive status by terminating all sponsorships as described by subsection (d) of this section.

§55.108. Required Education.

(a) Pre-Licensing Education and Examination. As provided by Finance Code §180.056, an individual applying for an originator's license (applicant) must complete the pre-licensing education and coursework prescribed by the federal S.A.F.E. Mortgage Licensing Act (federal SAFE Act) and approved by NMLS. Such education and coursework must include 3 hours of instruction relating to the applicable laws, rules, and practice considerations governing residential mortgage loan origination in Texas. As provided by Finance Code §180.057, an applicant must pass a written test prescribed by the federal SAFE Act and approved by NMLS.

(b) Lapsing of Pre-Licensing Education and Examination. An applicant other than a current license holder seeking renewal under §55.103 of this title (relating to Renewal of the License; i.e., an individual seeking a new license) must have completed the required pre-licensing education and coursework described by subsection (a) within the 3 years preceding the date of application; otherwise, the applicant must take the pre-licensing education and coursework approved and offered at the time of the application. Additionally, if an applicant for a new license did not pass the National Component with Uniform State Content examination approved by NMLS on or after April 1, 2013, the applicant must pass the current pre-licensing examination approved by NMLS in order to satisfy the requirements of Finance Code §180.057 (examinations taken prior to April 1, 2013, will not satisfy such requirements).

(c) Recognition of Pre-Licensing Education Taken in Another Jurisdiction. As provided by Finance Code §180.056, SML will recognize pre-licensing education and coursework taken in another jurisdiction subject to the requirements of the federal SAFE Act; provided, it is approved by NMLS for that purpose and otherwise meets the requirements of the federal SAFE Act, and Finance Code Chapter 180. However, SML will not recognize those hours of pre-licensing education and coursework taken in another jurisdiction the content of which was specific to that jurisdiction and that comprised the 12-hour undefined electives portion of such pre-licensing education and coursework. An applicant may take coursework that is of limited duration and limited in scope to the applicable laws, rules, and practice considerations governing residential mortgage loan origination in Texas in order to supplement and remedy a shortfall in hours derived from non-recognition of pre-licensing education taken in another jurisdiction, as provided by this subsection.

(d) Continuing Education. As provided by Finance Code §180.060 and §55.103 of this title, an originator must complete, on

an annual basis, continuing education and coursework approved by NMLS in order to renew the license.

§55.109. Temporary Authority.

(a) Purpose. The purpose of this section is to specify how an originator licensed in another jurisdiction or by a different licensing authority, or who is a "registered mortgage loan originator" (as defined by Finance Code §180.002), may avail himself or herself of the ability to act in the capacity of an originator in Texas temporarily while he or she seeks licensure by SML, as provided by Finance Code §180.0511.

(b) Application Required. An individual seeking to act under temporary authority must comply with the requirements of Finance Code §180.0511. Among other requirements, Finance Code §180.0511 requires that the individual file an application with SML seeking licensure to be recognized as having temporary authority. An individual must not act or attempt to act in the capacity of an originator until the application has been filed and the individual has been assigned an NMLS license status by SML recognizing such temporary authority (see §55.104 of this title (relating to NMLS License Records; Notices Sent to the Originator)). An individual may confirm his or her temporary authority status by reviewing his or her license status in NMLS or on the NMLS Consumer Access website (nmlsconsumeraccess.org).

(c) Incomplete Applications. The requirements of §55.101(c) of this title (relating to Applications for Licensure), providing for the deemed withdrawal of an application that is not complete, do not apply to an application for which temporary authority status is conferred.

(d) Maximum Duration. Pursuant to Finance Code §180.0511, the maximum duration for temporary authority is 120 days. When an originator has received the cumulative benefit of 120 days of temporary authority, no further temporary authority is allowed. An originator acting under temporary authority who has exceeded the 120-day maximum duration will have his or license status conferring temporary authority removed. An individual making an application for licensure who previously received the benefit of 120 days of temporary authority will not be conferred temporary authority status.

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

(a) Purpose. This section specifies licensing requirements for military service members, military veterans, and military spouses, in accordance with Occupations Code Chapter 55.

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

(c) Late Renewal (Reinstatement). As provided by Occupations Code §55.002, an individual is exempt from any increased fee or other penalty for failing to renew his or her originator license in a timely manner if the individual establishes to the satisfaction of 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 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 §55.005 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) 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).

(f) Substantial Equivalency. For purposes of this section and Occupations Code §55.004, an originator license issued in another jurisdiction is substantially equivalent to a Texas originator license if it is issued in accordance with the requirements of the federal SAFE Act (12 U.S.C. §§5501-5117). SML will verify a license issued in another jurisdiction in NMLS.

(g) Credit for Military Experience. As provided by Occupations Code §55.007, with respect to an applicant who is a military service member or military veteran, SML will credit 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) the pre-licensing education and coursework specified by Finance Code §180.056 and §55.108(a) of this title (relating to Required Education);

(2) the pre-licensing examination specified by Finance Code §180.057 and §55.108(a) of this title; and

(3) continuing education and coursework specified by Finance Code §180.060 and §55.108(d) of this title.

§55.111. Background Checks.

(a) NMLS Background Check; Fingerprints Required. An individual applying for an originator license (applicant) must provide fingerprints as prescribed by NMLS in order to facilitate a criminal background check through the Federal Bureau of Investigation. Additionally, an applicant must amend his or her license records (MU4 filing)

to provide authorization for SML to obtain the criminal background check in NMLS.

(b) Background Checks by SML. Pursuant to Finance Code §157.0132 and Government Code §411.1385, SML is authorized to conduct a criminal background check through the Texas Department of Public Safety (DPS). If requested by SML, applicant must submit to the DPS criminal background check process, including providing fingerprints and paying any applicable fees to DPS or its designated third-party fingerprint processor to complete the criminal background check process.

(c) NMLS Credit Check. An applicant must amend his or her license records (MU4 filing) to provide authorization for SML to obtain a copy of the applicant's credit report concerning the applicant's credit history from a credit reporting agency (credit bureau) in NMLS.

(d) Supplemental Information. An applicant must provide information related to any administrative, civil, or criminal findings or proceedings by a governmental jurisdiction, including any information required by §55.112 of this title (relating to Procedures for Review of Background Checks) to SML. The information must be uploaded to NMLS.

§55.112. Procedures for Review of Background Checks.

(a) Purpose. This section establishes procedures used by SML to perform background checks and review an individual's criminal background and credit history to determine his or her fitness and eligibility for licensure in accordance with Finance Code §157.0132.

(b) Supporting Information/Documentation for Criminal Background Check. An individual applying for an originator license (applicant) with a criminal history, when requested by SML, must provide the following information concerning each conviction or other criminal proceeding identified by SML:

(1) a detailed explanation, in writing, of the events and circumstances for each conviction or other criminal proceeding required to be self-disclosed in his or her application, signed and dated by the individual seeking licensure; and

(2) copies of court records or other documentation reflecting:

(A) the nature of the criminal offense (including the statutory provisions violated, and the severity or classification of the offense);

(B) the individual's plea (including any terms or other arrangements for the plea);

(C) the conviction (judgment or court order);

(D) the sentence imposed;

(E) any probation or community supervision imposed (including evidence of compliance); and

(F) any other action in the proceeding causing final disposition of the case to be deferred.

(c) Supporting Information/Documentation for Credit History Check. An applicant, when requested by SML, must provide the following information concerning each financial disclosure made in his or her application and each credit account on his or her credit report identified by SML:

(1) a detailed explanation, in writing, of the background and circumstances surrounding each financial disclosure made or credit account identified, signed and dated by the individual seeking licensure;

(2) if a bankruptcy proceeding is disclosed, a copy of the order of discharge, or if the proceeding is ongoing, the current bankruptcy petition, and the current financial schedules filed in the proceeding;

(3) if a judgment or lien is disclosed, a copy of such judgment or lien filing; and

(4) if delinquent child support is disclosed, a copy of the most recent statement of account or other documentation reflecting the current amount due, and if the individual is in a payment plan or has otherwise entered into terms for repayment, a copy of such plan or terms.

(d) Effect of Providing Supporting Documentation. By providing documentation to SML in accordance with subsections (b) and (c) of this section, the applicant certifies that he or she has a good faith belief that such documents are true and correct copies of documents issued by the person that originally created the document that SML may rely on in making a decision on the application. By providing such supporting documentation, the applicant consents to such documentation being admissible at an adjudicative hearing if the Commissioner seeks to deny the application, resulting in a contested case, and the applicant is deemed to have waived any objections concerning the admissibility of such documentation into the administrative record at such adjudicative hearing.

(e) Certified Documents. Notwithstanding subsection (d) of this section, the applicant, at his or her own cost, must obtain and provide SML with certified or exemplified copies of any documents described in subsections (b) and (c) of this section, upon written request by SML.

§55.113. Criminal Conviction Guidelines.

(a) Purpose. This section establishes the criteria used by SML to review an individual's criminal history to determine his or her eligibility and fitness to be licensed by SML as an originator. This section implements the requirements of Occupations Code §53.025, requiring SML to establish guidelines related to such reviews, including designating particular crimes and offenses SML considers to be directly related to the duties and responsibilities of acting as an originator and may constitute grounds for denial of licensure. The Commissioner's authority to deny an application for licensure based on an individual's criminal history under the Occupations Code is in addition to and augments that arising from the Finance Code. This section also describes the Commissioner's other statutory authority arising from the Finance Code for denial of licensure based on an individual's criminal history, including outlining certain offenses deemed by this section to be grounds for denial under the Finance Code.

(b) Ineligibility by Operation of Law. The following individuals are ineligible for licensure by operation of law due to his or her criminal history:

(1) an individual who, within the 7 years preceding the date of the application, has been convicted of, or pled guilty or nolo contendere (no contest) to, a felony in a court of this state, another state or territory of the United States, a federal court of the United States, or other foreign, or military court, in accordance with Finance Code §180.055(a); and

(2) an individual who, at any time, has been convicted of, or pled guilty or nolo contendere to, a felony offense involving an act of fraud, dishonesty, breach of trust, or money laundering, in accordance with Finance Code §180.055(a). Any felony offense listed in the schedule contained in subsection (e) of this section having a nexus to residential mortgage loan origination arising from the categories of criminal offenses related to residential mortgage loan origination un-

der subsection (d)(1) or (2) of this section (concerning crimes involving fraud, falsification, dishonesty, deception and breach of trust, and theft or embezzlement, respectively) is deemed to constitute a crime involving an act of fraud, dishonesty, breach of trust, or money laundering for purposes of Finance Code §180.055(a).

(c) Duties and Responsibilities of a Residential Mortgage Loan Originator. An originator acts as an intermediary between the consumer seeking a residential mortgage loan and the lender or underwriter that determines whether the consumer qualifies for the loan. The originator may assist the consumer in reviewing his or her income, expenses, and credit worthiness to determine whether he or she will qualify for a loan, and on what terms he or she might qualify. The originator may assist the consumer in completing the loan application, and sometimes directs the consumer to present his or her financial information in the manner to which the lender or underwriter is accustomed. A residential mortgage loan often takes place in the context of a real estate transaction, and as a result, an originator sometimes advises the consumer of his or her financial ability to purchase residential real estate, including providing a conditional pre-qualification letter to establish the consumer's purchasing power while shopping in the marketplace. Once the loan has entered the underwriting process, the originator may assist the consumer in resolving any outstanding conditions of the underwriter to qualify for the loan and obtain approval, including addressing items of concern on a consumer's credit report, immigration/residency status, available cash-on-hand for the transaction, and income which may not be readily established by documentary evidence such as that of an independent contractor. The originator communicates to the consumer the ever-changing loan terms as interest rates in the marketplace fluctuate and is often a key figure in advising the consumer of when and how he or she may "lock" the loan in advance of closing to solidify the loan terms. The originator may serve as communications liaison between the consumer and various parties to the transaction, including the lender, the underwriting department or a third-party underwriter, real estate brokers and sales agents, appraisers, surveyors, insurance providers, closing/settlement agents, and the representatives of various taxing authorities. In performing his or her duties, an originator has access to sensitive information of the consumer, including his or her social security number, date of birth, immigration/residency status, and all the personal financial details of the consumer, including employment, income, assets, and expenses.

(d) Categories of Offenses Related to Residential Mortgage Loan Origination. The Finance Commission of Texas and the Commissioner have determined the following categories of criminal offenses are directly related to the duties and responsibilities of acting as an originator:

(1) criminal offenses involving fraud, falsification, dishonesty, deception, and breach of trust;

(2) criminal offenses involving theft or embezzlement; and

(3) criminal offenses involving intoxication by drugs or alcohol.

(e) Schedule of Criminal Offenses Determined to be Directly Related. The Finance Commission of Texas and the Commissioner have determined the criminal offenses in the following schedule meet one or more of the categories deemed to relate to residential mortgage loan origination by subsection (d) of this section and are directly related to the duties and responsibilities of an individual licensed by SML to act as an originator. The schedule includes those criminal offenses most likely to be encountered by SML and is made from the perspective of the criminal laws of the State of Texas and the United States federal government. However, the schedule is not an exhaustive review of all offenses and does not limit SML from considering a criminal offense not specifically listed in the schedule. The schedule should be construed to include any criminal offense meeting one or more of the categories deemed to relate to residential mortgage loan origination, as provided by subsection (d) of this section. The schedule should further be construed to include the substantially similar or functionally equivalent crime of any state or territory of the United States, violations of the Texas Code of Military Justice (Government Code Chapter 432), violations of the Uniform Code of Military Justice (10 U.S.C. §801 et seq.), or crimes of a foreign country or governmental subdivision thereof. In determining whether a criminal offense of another jurisdiction is substantially similar or functionally equivalent, an inquiry will be made comparing the subject offense with an offense on the schedule to determine whether the subject offense has similar elements, including intent and classification of punishment, and whether the crime would have been punishable had the acts been committed in Texas.
Figure: 7 TAC §55.113(e)

(f) Factors. Unless the individual is ineligible for licensure by operation of law as provided by subsection (b) of this section, in determining whether a criminal offense is directly related to the duties and responsibilities of an individual licensed by SML to act as an originator, the Commissioner will consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to act as an originator;

(3) the extent to which an originator license might offer an opportunity for the individual to engage in further criminal activity of the same type as that in which the individual has previously been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensed originator; and

(5) any correlation between the elements of the crime and the duties and responsibilities of licensed originator.

(g) In addition to the factors in subsection (f) of this section, the Commissioner, in determining whether an individual who has been convicted of a crime (as determined by Finance Code §157.0131 and subsection (h) of this section) is unfit and ineligible for licensure, will consider:

(1) the extent and nature of the individual's past criminal activity;

(2) the age of the individual when the crime was committed;

(3) the amount of time that has elapsed since the individual's criminal activity;

(4) the amount of time that has elapsed since the individual's release from incarceration;

(5) the conduct and work activity of the individual before and after the criminal activity;

(6) evidence of the individual's rehabilitation or rehabilitative efforts;

(7) letters of recommendation, signed and dated, by a current employer, if the individual is employed, or a previous employer, stating that the employer has specific and complete knowledge of the individual's criminal history and the reasons the employer is recommending that the individual be considered fit to be licensed by SML; and

(8) any other letters of recommendation, signed and dated, by an individual familiar with the applicant and his or her character and fitness, with specific and complete knowledge of the individual's criminal history, able to offer competent information about the nature and extent of the applicant's rehabilitative efforts.

(h) Convictions Considered. The determination of whether a criminal proceeding is considered to have resulted in a conviction for purposes of this section will be made in accordance with Finance Code §157.0131, which states that an individual is considered to have been convicted of a criminal offense if:

(1) a sentence is imposed on the individual;

(2) the individual received probation or community supervision, including deferred adjudication or community service; or

(3) the court deferred final disposition of the individual's case.

(i) Consideration of Disciplinary Actions. Unless the individual is ineligible for licensure by operation of law as provided by subsection (b) of this section, in addition to the individual's criminal history, SML may consider the individual's past history of disciplinary actions with SML, or another regulatory body or official of another jurisdiction regulating residential mortgage loan origination or other financial services, which may serve as separate grounds for license ineligibility, or as an aggravating factor rendering the individual ineligible for licensure.

(j) Consideration of Financial Responsibility, Character and General Fitness. Unless the individual is ineligible for licensure by operation of law as provided by subsection (b) of this section, in addition to the individual's criminal history, the Commissioner may consider the individual's financial responsibility, and other evidence of character and general fitness, which may serve as separate grounds for license ineligibility, or as an aggravating factor rendering the individual ineligible for licensure. A conviction for a criminal offense having a nexus to residential mortgage loan origination arising from the categories of criminal offenses deemed to relate to residential mortgage loan origination under subsection (d) of this section is indicative of a failure to demonstrate requisite character and general fitness to command the confidence of the community in accordance with Finance Code §180.055(a)(3), and honesty, trustworthiness and integrity in accordance with Finance Code §157.012(c)(1).

§55.114. Request for Criminal History Eligibility Determination.

(a) Purpose and Applicability. This section establishes the procedures by which an individual may seek a preliminary review of his or her eligibility to be licensed by SML with respect to his or her criminal history prior to formally applying with SML for licensure, as authorized by Occupations Code Chapter 53. Pursuant to Occupations Code §53.102, this section applies to an individual who has reason to believe he or she is ineligible to be licensed by SML due to a conviction or deferred adjudication for a felony or misdemeanor offense, and who is enrolled or is planning to enroll in an educational program that prepares an individual to be licensed by SML. The Commissioner will not offer advisory opinions concerning criminal convictions or sentences that have not actually occurred.

(b) Request for Preliminary Eligibility Determination; Supporting Documentation. The request must be made using the current form prescribed by SML and posted on its website (sml.texas.gov). The fee to make a request under this section is determined by the Commissioner and posted on SML's website. The Commissioner may change the fee at any time; provided, any fee increase is not effective until notice has been posted on SML's website for at least 30 days.

(c) Review of Request for Preliminary Evaluation. A request made under this section will be reviewed by SML to determine the requestor's eligibility using the same procedures for review of an individual's criminal history when making an application for licensure and is subject to SML's criminal conviction guidelines in §55.113 of this title (relating to Criminal Conviction Guidelines). As a result, the requestor, in making the request, must list all offenses that actually resulted in a criminal conviction or that otherwise constitute a criminal conviction for purposes of Finance Code §157.0131 and §55.113 of this title. The requestor's incarcerated status that would render the individual ineligible for licensure pursuant to Occupations Code §53.021(b) will be disregarded; however, SML will consider the implications of the requestor's anticipated release from incarceration in making its determination.

(d) Determination of Eligibility. Within 90 days after the date the fully-completed request is received, SML will notify the requestor of his or her eligibility to receive a license issued under Finance Code Chapters 157 and 180.

(e) Effect of Determination. In the absence of new evidence known but not disclosed by the requestor, or not reasonably available to SML in consideration of the disclosures made by the requestor, the Commissioner's decision regarding eligibility of the requestor concerning his or her criminal history will be determinative for purposes of reviewing a subsequent application for licensure from the requestor. However, the Commissioner's decision regarding eligibility will not be determinative to the extent the request for preliminary eligibility determination contained fraudulent or misleading information or supporting documentation or otherwise failed to list a criminal conviction of the requestor that was not otherwise discovered by SML in investigating the request, regardless of whether or not the requestor was aware of the conviction at the time of the request, and including any subsequent conviction received by the requestor. A decision that the requestor is eligible will not be determinative if the requestor is determined to be ineligible for licensure by operation of law as provided by Finance Code §180.055(a) and §55.113 of this title.

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 26, 2024.

TRD-202403926
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§55.200 - 55.205

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code

§180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act. §55.200 is also proposed under the authority of, and to implement, Finance Code: §§156.004, 157.0021, 180.061(4) and 180.151. §55.201 is also proposed under the authority of, and to implement, Finance Code: §§156.105, 157.0023(b), and 157.02012. §55.202 and §55.203 are also proposed under the authority of, and to implement, Finance Code: §§157.02015, 157.024(a)(2) and (3), 180.151, 180.152, and §180.153. §55.204 is also proposed under the authority of, and to implement, Finance Code: §157.02015(b) and §180.061(5). §55.205 is also proposed under the authority of, and to implement, Finance Code §157.020(a-1) and §180.101.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§55.200. Required Disclosures.

(a) Specific Notice to Applicant. An originator sponsored by a mortgage company licensed by SML must provide a mortgage applicant with the notice required by §56.200(b) of this title (relating to Required Disclosures). An originator sponsored by a mortgage banker registered with SML must provide a mortgage applicant with the notice required by §57.200(b) of this title (relating to Required Disclosures). The notice must be sent at the time the originator takes the initial application for a residential mortgage loan.

(b) Posted Notice on Websites. An originator sponsored by a mortgage company licensed by SML must comply with the requirements of §56.200(c) of this title. An originator sponsored by a mortgage banker registered with SML must comply with the requirements of §57.200(c) of this title.

(c) Disclosures in Correspondence. An originator must provide the following information on all correspondence sent to a mortgage applicant:

(1) the name of the mortgage company or mortgage banker sponsoring the originator and its NMLS ID;

(2) the mortgage company's or mortgage banker's website address, if it has a website; and

(3) the name of the originator and his or her NMLS ID.

§55.201. Conditional Pre-Qualification and Conditional Approval Letters.

(a) Compliance with Mortgage Company and Mortgage Banker Rules. An originator sponsored by a mortgage company licensed by SML must comply with the requirements of §56.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters). An originator sponsored by a mortgage banker registered with SML must comply with the requirements of §57.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters).

(b) Issuance by the Originator. A conditional pre-qualification letter or conditional approval letter must be issued and signed by the originator.

(c) Duty to Issue Accurate Letters; Caution. A conditional pre-qualification letter or conditional approval letter must be accurate and reflect the actual information that the originator considered in issuing the letter. An originator is cautioned that the issuance of an inaccurate, erroneous, or a negligently-issued conditional pre-qualification letter or conditional approval letter constitutes a violation as provided by §55.202 of this title (relating to Fraudulent, Misleading, or Deceptive Practices, and Improper Dealings) and may result in disciplinary action against the originator. Additionally, if an inaccurate, erroneous, or a negligently-issued conditional pre-qualification letter or conditional approval letter is relied on by the mortgage applicant to incur out-of-pocket costs in connection with the prospective mortgage loan, it may subject the originator to a recovery claim under Finance Code Chapter 156, Subchapter F.

§55.202. Fraudulent, Misleading, or Deceptive Practices and Improper Dealings.

(a) Fraudulent, Misleading, or Deceptive Practices. The following conduct by an originator constitutes fraudulent and dishonest dealings for purposes of Finance Code §157.024(a)(3), deceptive practices for purposes of Finance Code §180.153(2), a scheme to defraud a person for purposes of Finance Code §180.153(1), and a false or deceptive statement or representation for purposes of Finance Code §180.153(11):

(1) knowingly misrepresenting the originator's relationship to a mortgage applicant or any other party to a residential mortgage loan transaction or prospective residential mortgage loan transaction;

(2) knowingly misrepresenting or understating any cost, fee, interest rate, or other expense to a mortgage applicant or prospective mortgage applicant in connection with a residential mortgage loan;

(3) knowingly overstating, inflating, altering, amending or disparaging any source or potential source of residential mortgage loan funds in a manner which disregards the truth or makes any knowing and material misstatement or omission;

(4) knowingly misrepresenting the lien position of a residential mortgage loan or prospective residential mortgage loan;

(5) knowingly participating in or permitting the submission of false or misleading information of a material nature to any person in connection with a decision by that person whether to make or acquire a residential mortgage loan;

(6) as provided by Regulation X (12 C.F.R. §1024.14), brokering, arranging, or making a residential mortgage loan for which the originator receives compensation for services not actually performed or where the compensation received bears no reasonable relationship to the value of the services actually performed;

(7) recommending or encouraging default or delinquency or the continuation of an existing default or delinquency by a mortgage applicant on any existing indebtedness prior to closing a residential mortgage loan which refinances all or a portion of such existing indebtedness;

(8) altering any document produced or issued by SML, unless otherwise permitted by statute or a rule of SML.

(9) using a trigger lead in misleading or deceptive manner by, among other things:

(A) failing to state in the initial communication with the consumer:

(i) the originator's name and mortgage company or mortgage banker on behalf of which the originator is acting;

(ii) a brief explanation of how the originator or his or her sponsoring mortgage company or mortgage banker obtained the consumer's contact information to make the communication (i.e., an explanation of trigger leads);

(iii) that the originator and his or her sponsoring mortgage company or mortgage banker is not affiliated with the creditor to which the consumer made the credit application that resulted in the trigger lead; and

(iv) that the purpose of the communication is to solicit new business for the mortgage company or mortgage banker sponsoring the originator;

(B) contacting a consumer who has opted out of prescreened offers of credit under the federal Fair Credit Reporting Act (FCRA; 12 U.S.C. §1681b(e)); or

(C) failing in the initial communication with the consumer to make a firm offer of credit as provided by the FCRA (12 U.S.C. §1681a(l) and §1681b(c)); or

(10) engaging in any other practice which the Commissioner, by published interpretation, has determined is fraudulent, misleading, or deceptive.

(b) Improper and Unfair Dealings. The following conduct by an originator constitutes improper dealings for purposes of Finance Code §157.024(a)(3) and unfair practices for purposes of Finance Code §180.153(2):

(1) Acting negligently in performing an act requiring a license under Finance Code Chapters 157 or 180;

(2) Violating any provision of a local, State of Texas, or federal constitution, statute, rule, ordinance, regulation, or final court decision that governs the same or a closely related activity, transaction, or subject matter that is governed by the provisions of Finance Code Chapters 157 or 180, or this chapter, including, but not limited to:

(A) Consumer Credit Protection Act, Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.) and Regulation B (12 C.F.R. §1002.1 et seq.);

(B) Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.);

(C) Regulation N (12 C.F.R. §1014.1 et seq.);

(D) Gramm-Leach-Bliley Act (GLBA; 15 U.S.C. §6801 et seq.), Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information rules (16 C.F.R. §313.1 et seq.);

(E) Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(F) Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. 1024.1 et seq.);

(G) Consumer Credit Protection Act, Truth in Lending Act (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.);

(H) the FTC's Standards for Safeguarding Customer Information rule (16 C.F.R. §314.1 et seq.);

(I) Finance Code Chapter 159 and Chapter 59 of this title; and

(J) Texas Constitution, Article XVI, §50 and Chapter 153 of this title;

(3) soliciting by phone a consumer who has placed his or her contact information on the national do-not-call registry maintained by the Federal Trade Commission (FTC), unless otherwise allowable under the FTC's Telemarketing Sales Rule (16 C.F.R. §310.4(b)(iii)(B));

(4) Issuing a conditional pre-qualification letter or conditional approval letter under §55.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters) that does not comply with the required form for the letter or is inaccurate, erroneous, or negligently-issued;

(5) Representing to a mortgage applicant that a charge or fee which is payable to the originator or the mortgage company or mortgage banker sponsoring the originator is a "discount point" or otherwise benefits the mortgage applicant unless the loan closes and:

(A) the mortgage company or mortgage banker sponsoring the originator is making the residential mortgage loan (lender); or

(B) the mortgage company or mortgage banker sponsoring the originator is not the lender but demonstrates by clear and convincing evidence that the lender charged or collected discount points or other fees which the mortgage company or mortgage banker sponsoring the originator paid to the lender on behalf of the mortgage applicant to buy down the interest rate on the residential mortgage loan;

(6) Failing to accurately respond within a reasonable time to reasonable questions from a mortgage applicant or prospective mortgage applicant concerning the scope and nature of the originator's services and any costs; or

(7) acting as an originator when the originator is licensed but not sponsored by a mortgage company or mortgage banker, or the license is otherwise in an inactive status.

(c) Related Transactions. An originator engages in fraudulent and deceptive dealings for purposes of Finance Code §157.024(a)(3), deceptive practices for purposes of Finance Code §180.153(2), and a scheme to defraud a person for purposes of Finance Code §180.153(1) when, in connection with the origination of a residential mortgage loan:

(1) the originator:

(A) offers other goods or services to a mortgage applicant in a separate but related transaction; and

(B) the originator engages in fraudulent, misleading, or deceptive acts in the related transaction; or

(2) the originator:

(A) affiliates with another person that provides goods or services to a mortgage applicant in a separate but related transaction;

(B) the affiliated person engages in fraudulent, misleading, or deceptive acts in that transaction;

(C) the originator knew or should have known of the fraudulent, misleading, or deceptive acts of the affiliated person; and

(D) the originator failed to take appropriate steps to prevent or limit the fraudulent, misleading, or deceptive acts.

(d) Sharing or Splitting Origination Fees with the Mortgage Applicant. An originator must not offer or agree to share or split any loan origination fees with a mortgage applicant, rebate all or a part of an origination fee to a mortgage applicant, reduce their established compensation to benefit a mortgage applicant, or otherwise provide money, a cash equivalent, or anything of value to a mortgage applicant in connection with performing residential mortgage loan origination services unless otherwise allowable under Regulation X (12 C.F.R. §1024.14) and Regulation Z (12 C.F.R. §1026.36(d)). An originator acting in the

dual capacity of an originator and real estate sales broker or agent licensed under Occupations Code Chapter 1101 may rebate their fees legitimately earned and derived from their real estate brokerage or sales agent services to the extent allowable under applicable law governing real estate brokers or sales agents; provided, the payment or other transfer described by this subsection occurs as a part of closing and is properly reflected in the closing disclosure. If a payment or other transfer described by this subsection occurs after closing, a rebuttable presumption exists that the payment or transfer is derived from the originator's fees for residential mortgage loan origination services and constitutes an improper sharing or splitting of fees with the mortgage applicant. The rebuttable presumption may only be overcome by clear and convincing evidence established by the originator that the payment or transfer is instead derived from fees for real estate brokerage or sales agent services. A violation of this subsection is deemed to constitute improper dealings for purposes of Finance Code §157.024(a)(3) and unfair practices for purposes of Finance Code §180.153(2).

(e) Education Fraud. The following conduct in connection with the pre-licensing education or examination, or continuing education required by §55.108 of this title (relating to Required Education) constitutes a false or deceptive statement or representation for purposes of Finance Code §180.153(11) and a false statement or omission of material fact for purposes of Finance Code §180.153(12):

(1) claiming credit for a pre-licensing education course, pre-licensing examination, or continuing education course the individual did not take; or

(2) taking a pre-licensing education course, pre-licensing examination, or continuing education course on behalf of another individual.

§55.203. Advertising.

An originator sponsored by a mortgage company licensed by SML must comply with the advertising requirements in §56.203 of this title (relating to Advertising). An originator sponsored by a mortgage banker registered with SML must comply with the advertising requirements in §57.203 of this title (relating to Advertising).

§55.204. Books and Records.

An originator sponsored by a mortgage company licensed by SML must comply with the books and records requirements in §56.204 of this title (relating to Books and Records). An originator sponsored by a mortgage banker registered with SML must comply with the books and records requirements in §57.204 of this title (relating to Books and Records). An originator fulfills the requirements of §56.204 of this title and §57.204 of this title, as applicable, if his or her sponsoring mortgage company or mortgage banker maintains the required books and records on behalf of the originator. An originator must work diligently and cooperatively with his or her sponsoring mortgage company or mortgage banker to ensure that the records arising from the originator's work are properly maintained by the mortgage company or mortgage banker sponsoring his or her license.

§55.205. Mortgage Call Reports.

(a) Purpose. This section clarifies and establishes requirements related to the mortgage call reports an originator is required to file under Finance Code §180.101.

(b) Fulfillment by Mortgage Company or Mortgage Banker. Mortgage companies licensed by SML and mortgage bankers registered with SML are required to file mortgage call reports. An originator is not expected to and should not attempt to file his or her own mortgage call reports. Instead, the originator's activity must be included in the mortgage call reports filed by the mortgage company or mortgage banker sponsoring the originator. An originator fulfills the requirements of Finance Code §180.101 if his or her sponsoring mortgage company or mortgage banker files mortgage call reports that include the originator's activity. An originator must work diligently and cooperatively with his or her sponsoring mortgage company or mortgage banker to ensure that the originator's activity is included in a mortgage call report filed by his or her sponsoring mortgage company or mortgage banker in compliance with §56.205 of this title (relating to Mortgage Call Reports), applicable to mortgage companies licensed by SML, and §57.205 of this title (relating to Mortgage Call Reports), applicable to mortgage bankers registered with SML.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403927
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. SUPERVISION AND ENFORCEMENT

7 TAC §§55.300 - 55.303, 55.310, 55.311

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act. §§55.300 - 55.303 are also proposed under the authority of, and to implement, Finance Code: §§157.021, 157.0211, 157.025, 180.061(5), and 180.062. §55.310 is also proposed under the authority of, and to implement, Finance Code: §§157.017, 157.023, 157.024, and 157.031. §55.311 is also proposed under the authority of, and to implement, §157.017.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§55.300. Examinations.

(a) Purpose. This section clarifies and establishes requirements related to examinations of an originator conducted by SML under Finance Code §157.021.

(b) State Examination System (SES). Examinations are conducted in SES (stateexaminationsystem.org). The mortgage company or mortgage banker sponsoring the originator must use SES to facilitate the examination.

(c) Examinations by Other State Agencies. SML may participate in, leverage, or accept an examination conducted by another state

agency or regulatory authority if that state agency's or regulatory authority's mortgage regulation program is accredited by the Conference of State Bank Supervisors.

(d) Notice of Examination. Except when SML determines that giving advance notice would impair the examination, SML will give the primary contact person of the mortgage banker or mortgage company sponsoring the originator listed in NMLS or a person designated by the primary contact person advance notice of each examination. Such notice will be sent to the primary contact person's or designated person's mailing address or email address of record with NMLS and will specify the date on which SML's examiners are scheduled to begin the examination. Failure to receive the notice will not be grounds for delay or postponement of the examination. The notice will include a list of the documents and records that must be produced or made available to facilitate the examination.

(e) Examination Scope. Examinations will be conducted to determine compliance with Finance Code Chapters 156, 157 and 180, and this chapter, and will specifically address whether:

(1) all persons are properly licensed and sponsored;

(2) all office locations are properly licensed or registered, as provided by §56.206 of this title (relating to Office Locations; Remote Work) and §57.206 of this title (relating to Office Locations; Remote Work);

(3) all required books and records are being maintained in accordance with §56.204 of this title (relating to Books and Records) and §57.204 of this title (relating to Books and Records);

(4) legal and regulatory requirements applicable to the originator and the mortgage banker or mortgage company sponsoring the originator are being properly followed (including, but not limited to, the requirements described in §55.202(b)(2) of this title (relating to Fraudulent, Misleading, or Deceptive Practices and Improper Dealings); and

(5) other matters as SML and its examiners deem necessary or advisable to carry out the purposes of Finance Code Chapters 156, 157, and 180.

(f) Loan Sample. The examiners will review a sample of residential mortgage loan files identified by the examiners from the mortgage transaction log required by §56.204(c)(1) or (d)(1) of this title, applicable to mortgage companies licensed by SML, or §57.204(c)(1) or (d)(1) of this title, applicable to mortgage bankers registered with SML. The examiner may expand the number of files to be reviewed if, in his or her discretion, conditions warrant.

(g) Failure to Cooperate; Disciplinary Action. Failure by an originator to cooperate with the examination or failure to grant the examiners access to books, records, documents, operations, and facilities may result in disciplinary action including, but not limited to, imposition of an administrative penalty.

(h) Reimbursement for Costs. The examiners may require an originator, at his or her own cost, to make copies of loan files or such other books and records as the examiners deem appropriate for the preparation of or inclusion in the examination report. When the examiners must travel outside of Texas to conduct an examination of an originator because the required records are maintained at a location outside of Texas, SML will require reimbursement for the actual costs incurred in connection with such travel including, but not limited to, transportation, lodging, meals, communications, courier service and any other reasonably related costs. Any such costs will be assessed against the originator in NMLS and must be paid in NMLS.

§55.301. Investigations.

(a) Purpose. This section clarifies and establishes requirements related to investigations of an originator conducted by SML under Finance Code §157.021.

(b) Reasonable Cause. SML will conduct an investigation if it has reasonable cause to do so. Reasonable cause is deemed to exist if SML receives or discovers information from a source SML has no reason to believe is other than creditable indicating that a violation of law more likely than not occurred that is within SML's authority to take action to address. The absence of reasonable cause to initiate an investigation does not constitute grounds to challenge and does not invalidate an action taken by SML to address a violation found during the course of an investigation.

(c) Investigation Methods. Investigations will be conducted as SML deems appropriate based on the relevant facts and circumstances then known. An investigation may include:

(1) review of documentary evidence;

(2) interviews with complainants, respondents, and third parties, and the taking of sworn written statements;

(3) obtaining information from other state or federal agencies, regulatory authorities, or self-regulatory organizations;

(4) requiring complainants or respondents to provide explanatory, clarifying, or supplemental information; and

(5) other lawful investigative methods SML deems necessary or appropriate.

§55.302. Confidentiality of Examination, Investigation, and Inspection Information.

(a) Purpose. This section clarifies and establishes requirements related to the confidentiality of information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §157.021.

(b) Confidential Information. All information obtained by SML during an examination, investigation, or inspection is confidential and cannot be released except as required or expressly permitted by law. The Finance Commission of Texas and the Commissioner have determined that the following information is confidential under Finance Code §156.301 (list is not exhaustive):

(1) any documents, data, data compilations, work papers, notes, memoranda, summaries, recordings, or other information, in whatever form or medium, obtained, compiled, or created during an examination, investigation, or inspection;

(2) information that is derived from or is the product of the confidential information described by paragraph (1) of this subsection, including any reports or other information chronicling or summarizing the results, conclusions, or other findings of an examination, investigation, or inspection, including assertions of any violations, deficiencies, or issues identified, or any directives, mandates, or recommendations for action by the regulated entity to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection; including, but not limited to, any corrective or remedial action directed by SML or taken by the originator entity under §55.303 of this title (relating to Corrective Action); and

(3) information that is derived from or is the product of the confidential information described by paragraphs (1) and (2) of this subsection, including any communications, documentary evidence, or other information concerning the regulated entity's compliance with

any directives, mandates, or recommendations for action by the mortgage company and any corrective or remedial action taken by the regulated entity to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection.

(c) Loss of Confidentiality. Subsection (b) of this section notwithstanding, information described by that subsection is not confidential to the extent the information becomes publicly available in a disciplinary or enforcement action that is a contested case (i.e., information made part of the administrative record during an adjudicative hearing that is open to the public).

§55.303. Corrective Action.

(a) Corrective Action, Generally; Purpose. During an examination, investigation, or inspection, SML may determine that violations, deficiencies, or compliance issues (collectively, violations) occurred. Within the confidential environment of the examination, investigation, or inspection, SML may direct the originator to voluntarily take corrective action to address the violations identified during the examination, investigation, or inspection. This section clarifies and establishes requirements related to such corrective action.

(b) Internal Reviews. If SML determines during an examination, investigation, or inspection that a violation may be systemic, SML may direct the originator to conduct his or her own review to self-identify any other violations, compile information concerning such violations, and report his or her findings to SML. SML may direct the originator to take corrective action for any violations identified

(c) Refunds to Consumers. SML may direct the originator to make refunds to consumers affected by the violation. Any refund must comply with this subsection. The Commissioner, in his or her sole discretion, may waive or modify the requirements of this subsection to achieve appropriate, practical, and workable results. A refund must be made by one of the following methods:

(1) Certified Funds. The refund may be made by certified funds (cashier's check or money order) sent to the mortgage applicant at his or her last known address. The originator must use reasonable diligence to determine the last known address of the mortgage applicant. The payment must be sent in a manner that includes tracking information and confirmation of delivery (e.g., certified mail return receipt requested, or commercial delivery service with tracking). The originator must capture and maintain records evidencing the payment, including a copy of the payment instrument, any correspondence accompanying the payment, tracking information, and delivery confirmation; or

(2) Wire Transfer or ACH. The refund may be made by wire transfer or automated clearing house (ACH) payment to the mortgage applicant's verified bank account. The originator must capture and maintain records evidencing the payment, including any transaction receipt, confirmation page, or similar, reflecting:

(A) name of the sender and any relevant contact information;

(B) sender's bank information (institution, routing number, and account number);

(C) name of the recipient and any relevant contact information;

(D) recipient's bank information (routing number and account number); and

(E) the transaction reference number or confirmation code.

§55.310. Appeals.

(a) Purpose. Finance Code Chapter 157 provides that certain decisions of the Commissioner adverse to an originator or other individual may be appealed and offers the opportunity for an adjudicative hearing to challenge the decision. This section establishes various deadlines by which an originator or other individual must appeal the decision before it becomes final and non-appealable.

(b) The following appeal deadlines apply:

(1) License Denials. A license denial under Finance Code §157.017 must be appealed within 10 days after the date notice of the Commissioner's decision is received by the individual seeking the license.

(2) Order of Suspension for Violation of Final Order. An order of suspension issued by the Commissioner under Finance Code §157.024(h) must be appealed within 15 days after the date the order is issued.

(3) Notice of Suspension for Criminal Offense Involving Fraud, Theft, or Dishonesty. A notice of suspension issued under Finance Code §157.024(k) must be appealed within 15 days after the date the notice is issued.

(4) Notice of Disciplinary Action. A notice of disciplinary action issued under Finance Code §§ 157.023(a), 157.024(a), or 157.024(b) must be appealed within 30 days after the date the notice is issued.

(5) Order for Disciplinary Action (Order to Take Affirmative Action or Order to Cease and Desist). An order of the Commissioner issued under Finance Code §157.024(c) or §157.031(b) must be appealed within 30 days after the date the order is issued. This deadline does not apply to an order for disciplinary action issued by the Commissioner under Finance Code §§ 157.023(a), 157.024(a), or 157.024(b) that was preceded by notice issued under paragraph (4) of this subsection.

(6) Other Deadlines. Any appeal not otherwise addressed by this section must be made within 30 days after the date the notice or order is issued.

(c) Requests for Appeal. An appeal must be made in writing and received by SML on or before the appeal deadline. An appeal may be sent by mail (Attn: Legal Division, 2601 N. Lamar Blvd., Suite 201, Austin, Texas 78705) or by email (enforcement@sml.texas.gov).

(d) Effect of Not Appealing. An originator or other individual who does not timely appeal the Commissioner's decision is deemed to have irrevocably waived any right he or she had to challenge the decision or request an adjudicative hearing on the decision and is deemed not to have exhausted all administrative remedies available to him or her for purposes of judicial review of the Commissioner's decision under Government Code §2001.171. The failure to appeal an order of the Commissioner results in the order becoming final and non-appealable. The failure to appeal a notice of the Commissioner's decision means the Commissioner can issue a final, non-appealable order at any time without further notice or opportunity for a hearing to the originator.

§55.311. Hearings.

(a) Hearings, Generally. Adjudicative hearings conducted under Finance Code Chapters 157 and 180 are governed by the rules in Chapter 9 of this title (concerning Rules of Procedure for Contested Hearings, Appeals, and Rulemakings). Contested cases referred to the State Office of Administrative Hearings (SOAH) are also governed by SOAH's rules in 1 TAC Chapter 155 (concerning Rules of Procedure). All hearings are held in Austin, Texas. Any appeal for judicial review under Government Code §2001.171 must be brought in a district court in Travis County, Texas.

(b) Hearing Costs for License Denials. Hearing costs assessed against an individual under Finance Code §157.017(f) include:

(1) filing fees;

(2) the costs of a court reporter;

(3) the costs of the administrative law judge (ALJ) or hearings officer presiding over the hearing;

(4) the expense of SML's staff to prepare for and attend the hearing or any ancillary proceedings (i.e., the hearing of motions, status conferences, etc.), and any related travel expenses;

(5) the cost of any outside counsel retained to represent SML; and

(6) the cost of any expert witness retained by SML.

(c) Determination of Hearing Costs for License Denials. Unless the ALJ makes more specific findings of fact or conclusions of law concerning the hearing costs described by subsection (b)(3) of this section, such costs are deemed to be $500. Hearing costs described by subsection (b)(4) of this section are measured based on the diversion of productivity of such staff away from their typical duties and toward the hearings process and are calculated by multiplying the number of hours spent by each staff member in furtherance of the hearings process (measured in increments of 1/10 of an hour) by their current hourly compensation rate. The Commissioner may rely on affidavit testimony of such staff members to make appropriate findings of fact and conclusions of law concerning the hearing costs described by subsection (b)(4) 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 26, 2024.

TRD-202403928
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 56. RESIDENTIAL MORTGAGE LOAN COMPANIES

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes new rules in 7 TAC Chapter 56: §§56.1 - 56.6, 56.100 - 56.108, 56.200 - 56.206, 56.210, 56.300 - 56.304, 56.310, and 56.311 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 80, Residential Mortgage Loan Companies, affect residential mortgage loan companies (mortgage companies) licensed by SML under Finance Code Chapter 156 (Chapter 156).

Changes Concerning the Reorganization (Relocation) of Mortgage Company Rules from Chapter 80 to Chapter 56

SML has determined it should reorganize its rules concerning mortgage companies by relocating the rules to Chapter 56, a vacant chapter. The proposed rules, if adopted, would effectuate this change.

Changes Concerning General Provisions (Subchapter A)

The proposed rules: in §56.2, Definitions, adopt new definitions for "E-Sign Act," "engage in or conduct the business of a mortgage company," "making a residential mortgage loan," "mortgage banker," "SML," "State Examination System," "trigger lead," "UETA," "wrap lender," and "wrap mortgage loan" while eliminating definitions for "Commissioner's designee," and "Department"; in §56.3, Formatting Requirements for Notices, adopt formatting requirements for the various disclosures a mortgage company is required to make; in §56.4, Electronic Delivery and Signature of Notices, clarify that any notice or disclosure made by a mortgage company may be delivered and signed electronically; and, in §56.5, Computation of Time, clarify how time periods measured in calendar days are computed.

Changes Concerning Licensing Requirements (§56.100)

The proposed rules, in §56.100, Licensing Requirements, clarify when a mortgage company license is required. §56.100(c) clarifies, among other things, the requirements of Finance Code §156.202(a-1)(3), which provides that an "owner of residential real estate who in any 12-consecutive month period *makes* no more than three residential mortgage loans to purchasers of the property for all or part of the purchase price of the residential real estate against which the mortgage is secured" (emphasis added) is exempt from the requirement to be licensed by SML as a mortgage company under Chapter 156 (meaning, a person who acts as the lender and makes more than three such loans is not exempt and must be licensed). In response to an early precomment draft of the rules published on SML's website, SML received an informal comment from the Texas Land Developers Association (TLDA) asserting that proposed §56.100(c) seeks to impose licensing requirements on certain seller-finance mortgage lenders selling residential real estate (seller-finance lenders) currently operating under the belief that a mortgage company license is not required if the seller-finance lender secures the services of an entity licensed or registered by SML to provide residential mortgage loan origination services in making the loan, and that lender does not actually originate the mortgage loan. According to TLDA, this belief has its origins in informal guidance posted on SML's website as late as 2016 in the form of an answer to a "frequently asked question," as follows: "Q: May an individual or entity owner finance more than five properties within a 12 month period without being licensed if they use a licensed RMLO to facilitate the transaction?; A: Yes, assuming that they only act as the lender in the transaction and do not take an application or negotiate rate and terms with potential borrowers" (at that time, the statutory threshold for exempt transactions was five). However the licensing requirements referenced by §56.100(c) are imposed by Finance Code §156.202(a-1)(3), not the proposed rules, and the statute plainly states a mortgage company license is required for a person that makes (as the lender) more than the number of exempt transactions allowed under the statute. Proposed §56.100(c), if adopted, would clarify the statutory requirements of Finance Code §156.202(a-1)(3) and dispel the belief that a license is not required under the circumstances described above. Given the apparent pervasiveness of this belief, SML is contemplating a delayed effective date of January 2026 for proposed §56.100, to provide time for industry to move toward compliance and allow the Texas Legislature to consider this issue during the 89th legislative session. SML welcomes comments to the proposal in this regard.

Other Changes Concerning Licensing (Subchapter B)

The proposed rules: in §56.102, Fees, clarify that the license fee charged by SML is exclusive of fees charged by the Nationwide Multistate Licensing System (NMLS), and clarify that an insufficient funds fee under Finance Code §156.203(e) may be charged if the mortgage company makes a payment to SML by automated clearing house and that payment fails; in §56.103, Renewal of the License, clarify that a license approved with a pending deficiency is a conditional license and requires the mortgage company to resolve the deficiency within 30 days after the date the license is approved, and clarify that, if a license is not renewed within the reinstatement period provided by Finance Code §156.2081, a person must apply for a new license; in §56.104, NMLS License Records; Notices Sent to the Mortgage Company, change the contact person in NMLS to whom notices are sent from the contact person under "Identifying Information" to the contact person designated as the "Primary Company Contact" under "Contact Employee"; in §56.105, Conditional License, clarify the terms and conditions under which a conditional license may be granted; in §56.106, Surrender of the License, clarify circumstances under which SML may not grant a request made by the mortgage company to surrender its license; in §56.107, Sponsorship of the Originator; Responsibility for Originator's Actions, provide that a mortgage company license will revert to inactive status if the mortgage company fails to maintain a sponsored individual residential mortgage loan originator; and, in §56.108, Qualified Individual, establish a requirement that the contact information for the Qualified Individual for the mortgage company must match the principal address of the mortgage company in NMLS.

Changes Concerning Books and Records (§56.204)

Pursuant to Finance Code §156.301(a), SML may conduct inspections (examinations) of a mortgage company or an individual residential mortgage loan originator (originator) sponsored by a mortgage company (sponsored originator) to determine compliance with the requirements of Chapter 156 and the rules adopted thereunder. Examinations include inspection of the mortgage company's or sponsored originator's "books, records, documents, operations, and facilities . . . and access to any documents required under rules adopted under [Chapter 156]" (Finance Code §156.301(a)). Pursuant to Finance Code §156.301(b), SML, upon receipt of a signed, written complaint against a mortgage company "shall investigate the actions and records" of the mortgage company or its sponsored originator. Pursuant to Finance Code §156.301(e), the commission "by rule shall . . . determine the information and records to which [SML] may demand access during an inspection or an investigation." Pursuant to Finance Code §156.102(c), the commission may "adopt rules regarding books and records that a [mortgage company] is required to keep, including the location at which the books and records must be kept." Meanwhile, with respect to sponsored originators, pursuant to Finance Code §157.021(a), SML may conduct examinations of an originator to determine compliance with Chapter 157 and the Texas SAFE Act, or the rules adopted thereunder. Examinations include inspection of the originator's "books, records, documents, operations, and facilities" (Finance Code §157.021(a)). Pursuant to Finance Code §157.021(b), SML, upon receipt of a signed written complaint against an originator, "shall investigate the actions and records" of the originator. Pursuant to Finance Code §157.021(e), the commission "by rule shall . . . determine the information and records [of the originator] to which [SML] may demand access during an inspection or an investigation." Pursuant to Finance Code §157.02015(b), the commission "may adopt rules regarding books and records that [an originator] is required to keep, including the location at which the books and records must be kept." The proposed rules, in §56.204, Books and Records: clarify that a mortgage company must maintain books and records on behalf of its sponsored originators; expand existing requirements by establishing additional data points for the mortgage transaction log a mortgage company is required to maintain under existing rules; establish a requirement for a mortgage company to maintain books and records concerning home equity line of credit transactions; establish a requirement for a mortgage company to maintain records relating to home equity loans; establish a requirement for a mortgage company to maintain a loan processing and underwriting log to track loan processing and underwriting services the mortgage company provides; establish recordkeeping requirements for corrective action taken by the mortgage company under proposed §56.304; and establish recordkeeping requirements for the handling of unclaimed funds of the consumer under proposed §56.305. The records and information a mortgage company is required to maintain under proposed §56.204 are required by other state and federal law or otherwise generated in the ordinary course of doing business. The proposed rules merely require that the mortgage company capture and maintain the records or information, including transposing certain information to the transaction logs required by the rule. Applicable state and federal law a mortgage company is required to comply with and that triggers the maintenance of the records and information includes, but not limited to: Article XVI, Section 50, Texas Constitution; Finance Code Chapter 156; Finance Code Chapter 159; Finance Code Chapter 343; the federal Consumer Credit Protection Act, Truth in Lending Act (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.); the federal Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.); the federal Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.) and Regulation B (12 C.F.R. §1002.1 et seq.); the federal Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.), Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information Rules (16 C.F.R. §313.1 et seq.); the FTC's Standards for Safeguarding Customer Information Rule (16 C.F.R. §314.1 et seq.); the federal Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.); and Regulation N (Mortgage Acts and Practices-Advertising (MAP Rule)); 12 C.F.R. §1014.1 et seq.).

Changes Concerning Reportable Incidents (§56.210)

The mortgage industry in recent years, like many other industries, has experienced increasing operational risks to cybersecurity posed by threat actors, including third-party service providers subject to such risks. SML has found that, in many instances, regulated persons do not self-report incidents that pose a threat to operations, and SML only learns of the incident through consumer complaints filed with SML, or through media reports, leaving SML in a poor position to mount a regulatory response. The proposed rules in §56.210, Reportable Incidents, establish requirements for a mortgage company to report certain information to SML when the mortgage company experiences a "security event" or a "catastrophic event." A "security event" is defined by the rule to mean "an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information

held in physical form." A "catastrophic event" is defined by the rule to mean "an event, other than a security event, that is unforeseen and results in extraordinary levels of damage or disruption to operations." For an event to be reportable under the rule, it must present "a material risk, financial or otherwise, to a mortgage company's operations or its customers." SML asserts such information is necessary to facilitate SML's examination authority described in the Changes Concerning Books and Records (§56.204) section above. Under federal law, pursuant to the Federal Trade Commission's (FTC) Standards for Safeguarding Customer Information rules (16 C.F.R. §314.1, et seq.), a mortgage company must "develop, implement, and maintain a comprehensive information security program" to safeguard customer information (16 C.F.R. §314.3(a)), and must, among other things: conduct periodic risk assessments of the information system; design and implement safeguards to control risks to the integrity of the information system (including data encryption and controlling access); regularly test or monitor the effectiveness of the safeguards; implement policies and procedures and internal controls to ensure personnel can execute the information security program; oversee service providers to ensure compliance with the information security program; continuously evaluate and adjust the information security program; establish a written incident response plan designed to promptly respond to, and recover from, any security event materially affecting the confidentiality, integrity, or availability of customer information; and, in the event of a breach involving the information of 500 or more consumers, report certain information to the FTC concerning the nature and extent of the breach. Meanwhile, pursuant to Business and Commerce Code §521.052, a mortgage company "shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business." Pursuant to Business and Commerce Code §521.053(i), for a breach involving the information of 250 or more Texas consumers, a mortgage company must report certain information to the attorney general. Considering the foregoing, the existing requirements of state and federal law already require a mortgage company to maintain the information required to be reported to SML under proposed §56.210 in the event of a security event. Moreover, a report made to the FTC or to the attorney general described above generally satisfies the requirements of the rule, other than the requirement to provide a "root cause analysis" concerning the "results or findings of an audit or investigation to determine the origin or root cause of security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event"; however, SML asserts that a root cause analysis is subsumed under the existing requirements of state and federal law related to security events, as described above, in order to meaningfully comply with such requirements.

Other Changes Concerning Duties and Responsibilities (Subchapter C)

The proposed rules: in §56.200, Required Disclosures, remove the requirement that the disclosure to consumers required by Finance Code §156.004(a) or §157.0021(a) be signed by the individual residential mortgage loan originator and the mortgage applicant, remove the requirement that a mortgage company make the disclosure on social media sites, and establish the requirement for a mortgage company to disclose its website address on all correspondence sent to the mortgage applicant; in §56.201, Conditional Pre-Qualification and Conditional Approval Letters, establish the requirement that a conditional pre-qualification letter or conditional approval letter be issued by an individual residential mortgage loan originator acting on behalf of the mortgage company; in §56.202, Fraudulent, Misleading, or Deceptive Practices and Improper Dealings, clarify that a mortgage company commits a violation if the mortgage company knowingly misrepresents the lien position of a residential mortgage loan, create requirements concerning the use of trigger leads, clarify that a mortgage company commits a violation if the originator solicits a consumer on the federal do-not-call registry, clarify that a mortgage company commits a violation if the mortgage company issues a conditional pre-qualification letter or conditional approval letter that is inaccurate, erroneous, or negligently-issued, and clarify that a mortgage company commits a violation if the mortgage company engages in business when its license is inactive; in §56.203, Advertising, establish the requirement for a mortgage company to state its website address when making an advertisement, and establish requirements for the use of team names by a mortgage company; in §56.205, Mortgage Call Reports, clarify the required components of the mortgage call report, and clarify that mortgage call reports must be complete and accurate when filed.

Changes Concerning Supervision and Enforcement (Subchapter D)

The proposed rules: in §56.300, Examinations, provide that examinations are conducted using the State Examination System, and that SML may participate in, leverage, or accept an examination conducted by another state agency or regulatory authority; in §56.302, Confidentiality of Examination, Investigation, and Inspection Information, clarify the confidentiality of information arising from an examination, investigation, or inspection by SML; in §56.303, Corrective Action, clarify when SML may direct a mortgage company to take corrective action, and creating requirements for refunds made to consumers; in §56.304, establish requirements concerning the mortgage company's handling of unclaimed funds of the consumer, including requiring the maintenance of a log to track the handling of such funds; in §56.310, Appeals, establish various deadlines by which a mortgage company or other person subject to an enforcement action must appeal; and, in §56.311, Hearings, clarify how hearing assessed against a person under Finance Code §156.209(f) are calculated.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules, including: adding and replacing language for clarity and to 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 rules are in effect, there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules.

Implementation of the proposed rules 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 rules 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 rules are in effect, the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing mortgage companies to be easier to find by members of the public; and, to better protect members of the public who are consumers seeking a residential mortgage loan from a mortgage company licensed by SML.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs). However, SML includes a note concerning certain potential costs other than direct costs (indirect costs). SML incorporates by reference the Changes Concerning Licensing Requirements (§56.100) section above as if fully set forth herein. Some seller-finance lenders may seek licensure as a result of the statutory clarification made in the proposed §56.100, and, if so, would incur costs related to acquiring and maintaining the license (licensing costs) and costs related to ensuring compliance with Chapter 156 (compliance costs). However, these costs are indirect because the statute, not the proposed rules, imposes licensing requirements and such costs. The precise number of seller-finance lenders operating in Texas is indeterminate, as is the number of seller-finance lenders doing more than the statutory number of exempt transactions. TLDA estimates that perhaps as many as 5,000 - 10,000 seller-finance lenders will seek licensure as a mortgage company as a result of the statutory clarification in proposed §56.100. According to data from the Texas Comptroller of Public Accounts (Comptroller), there are approximately 2,626 Texas businesses operating in non-depository credit intermediation (NAICS Code 5222; a category that includes real estate credit (NAICS Code 522292; businesses offering credit secured by real estate)), among other types of lending by non-depository institutions). According to data from the U.S. Census Bureau, there are 1,640 Texas businesses operating in non-depository intermediation and 484 operating in real estate credit. (Given that the Comptroller and U.S. Census Bureau figures include businesses other than seller-finance lenders, and also include seller-finance lenders doing loans below the statutory number of exempt transactions and those already licensed, these figures are presumed to be higher than the actual figure that would seek licensure.) According to information made publicly available by Advanced Seller Data Services, an organization that facilitates the buying and selling of seller-finance loans on the secondary market and aggregates data concerning seller-finance loan activity, in 2022, there were 83,647 seller-finance loans made nationwide, with 20,922 made in Texas (25% of loan volume). According to that same industry source, 85% of seller-finance lenders nationwide made one loan in 12 months (below the statutory number of exempt transactions), 8% made two or three loans in that time (at or below the statutory number of exempt transactions), and 7% made four or more loans in that time (above the statutory number of exempt transactions). Assuming the percentage breakdown of seller-finance lenders making four or more loans (7%) is representative of loans made in Texas, of the 20,922 loans made in Texas, 1,465 loans were made by seller-finance lenders making four or more loans. Assuming further that such loan volume was by seller-finance lenders making only four loans (which has the tendency to create a maximal value of participant lenders), approximately 367 seller-finance lenders were required to be licensed in 2022. According to that same industry source, of the seller-finance loans made nationwide in 2022, 63% were residential, 16% were commercial, 17% were for unimproved land, and 4% were categorized as unknown. Assuming all transactions other than commercial transactions (84%) were residential (which has the tendency to create a maximal value of residential transactions; pursuant to Finance Code §156.002(15), residential real estate includes unimproved land on which a dwelling is intended to be constructed), and assuming further that the percentage breakdown of loan categories is representative of seller-finance loans made in Texas, the total loan volume of residential seller-finance loans in Texas in 2022 was approximately 17,575. Applying the same percentage breakdown of seller-finance lenders making four or more loans discussed above (7%) means that 1,231 of that loan volume was by seller-finance lenders making four or more loans, and that approximately 308 seller-finance lenders were required to be licensed in 2022. Beginning November 1, 2024, and at the time the proposed rules might be adopted, the fee charged by SML for an initial mortgage company license will be $325, and the renewal fee will be $275. The Nationwide Multistate Licensing System (NMLS) also charges a fee of $100 to process the license application. The license must be renewed annually. This would result in licensing costs of $425 in the first year, and $375 for each year thereafter, or a total licensing cost of $1,925 per person for the first five years the proposed rules are in effect. Using the $1,925 per person cost figure and applying it to the potential number of seller-finance lenders in Texas described above results in the following potential licensing costs: using the TLDA figures, $9.6m - $19.2m over the first five years, or an average of $1.9m - $3.8m per year; using the Comptroller figure, $5m over the first five years, or an average of $1m per year; using the U.S. Census figures, $931,700 - $3.1m, or an average of $186,340 - $631,400 per year; and using the Advanced Seller Data Services figures, $592,900 - $706,475, or an average of $118,580 - $141,295 per year. A mortgage company must appoint at least one individual to serve as its "qualifying individual" (qualified individual) for purposes of Finance Code §156.002(10-b) and §156.201(c). The qualified individual serves as a personal representative for the mortgage company and is responsible for violations of law by the mortgage company or its originators. The qualified individual must be licensed by SML as an originator and licensure of the originator has its own attendant licensing costs. Beginning November 1, 2024, and at the time the proposed rules might be adopted, the fee charged by SML for an initial originator license will be $125, plus a $25 sponsorship fee, and a $20 recovery fund fee required by Finance Code §156.502(a) (a total of $170). The fee to renew the license will be $90. NMLS also charges a fee of $30 to process the license application. The license must be renewed annually. This would result in licensing costs of $200 in the first year, and $120 per year thereafter, or a total licensing cost of $680 per person for the first five years the proposed rules are in effect. However, these costs are borne by the individual originator, not the person seeking the mortgage company license.

The mortgage company may choose to absorb these licensing costs as a part of the compensation package it offers the qualified individual, but that is at the election of the mortgage company, and such costs are therefore indirect costs. Regardless, using the $680 per person cost figure and applying it to the potential number of seller-finance lenders in Texas that may seek licensure, as described above, results in the following potential licensing costs relating to the originator who is the qualified individual for the mortgage company: using the TLDA figures, $3.4m - $6.8m, or an average of $680,000 - 1.3m per year; using the Comptroller figure, $1.7m, or an average of $357,136 per year; using the U.S. Census Bureau figure, $329,120 - $1.1m, or an average of $65,824 - $223,040 per year; using the Advance Seller Data Services figures, $209,440 - $249,560, or an average of $41,888 - $49,912 per year. A mortgage company may appoint a W-2 employee as its qualified individual or may contract with a third-party as an independent contractor to do so. The eligibility requirements for obtaining an originator license are not particularly onerous (23 hours pre-licensing education, passage of a pre-licensing examination, and an acceptable credit and criminal background), and a mortgage company could reasonably be expected to assign such duties to an existing employee after an initial, one-time cost of approximately $761.25 (consisting of pre-licensing education fees ($600), pre-licensing examination fees ($110), credit check ($15) and criminal background check ($36.25)), exclusive of the originator license fees described above. According to data from the U.S. Bureau of Labor Statistics, a loan officer working in non-depository credit intermediation in May 2023 had the following wage attributes: annual median wage, $62,210; annual mean wage, $80,010; annual 10th percentile wage, $31,380; annual 25th percentile wage, $39,920; annual 75th percentile wage, $98,180; and annual 90th percentile wage: $133,250. Meanwhile, a loan officer working in credit intermediation and related activities (NAICS Codes 5221 and 5223; a category that includes mortgage and nonmortgage loan brokers (NAICS Code 522310) had the following wage attributes: annual median wage, $84,230; annual mean wage, $72,690; annual 10th percentile wage, $40,630; annual 25th percentile wage, $51,550; annual 75th percentile wage, $99,910; 90th percentile wage, $136,440. Using the foregoing annual median wages, a seller-finance lender seeking licensure that hires a new employee to serve as qualified individual might reasonably be expected to incur a cost of between $62,210 - $84,230 in wages paid to that individual. Applying the higher figure ($84,230) to the potential number of seller-finance lenders in Texas that may seek licensure results in the following costs per year relating to employment wages of the qualified individual hired as a full time W-2 employee: using the TLDA figures, $421.1m - $842.3m, or an average of $84.2m - $168.4m per year; using the Comptroller figure, $221.1m, or $44.2m per year; using the U.S. Census Bureau figures, $40.7m - 138.1m, or $8.1m - $27.6m; using the Advanced Seller Data Services figures, $25.9m - $30.9m, or $5.1m - $6.1m per year. In a related rule proposal published elsewhere in this issue of the *Texas Register* concerning rules applicable to originators (see proposed new rules in 7 TAC Chapter 55), the rules provide that an originator may be sponsored by more than entity at a time, thereby allowing an originator to serve as qualified individual for more than one entity at a time. This dynamic should have the tendency to reduce costs for a mortgage company securing the services of an independent contractor to serve as qualified individual, and also allows a seller-finance lender that may be accustomed to securing the services of a third-party originator to continue to do so, and allow the qualified individual for that third-party entity to also serve as qualified individual for the seller-finance lender that may seek licensure as a result of the statutory clarification made in proposed §56.100. Regardless of the manner of employment, the qualified individual, in fulfilling his or her duties, could reasonably be expected to satisfy the other compliance costs described below. In accordance with Finance Code §156.213, a mortgage company is required to file mortgage call reports on a periodic basis, including a statement of financial condition. The mortgage call report is filed quarterly in the NMLS system. The filing of mortgage call reports may have some attendant costs; however, such costs are imposed by statute, not the proposed rules, and are therefore indirect costs. Seller-finance lenders that may seek licensure as a result of the statutory clarification in proposed §56.100 claim to be exempt from licensing requirements because they do not provide residential mortgage loan origination services but, instead, secure the services of a third-party to do so. If these persons continue secure the services of a third-party originator, they will not have reportable origination activity on the mortgage call report and will merely report this inactivity, resulting in any costs to file mortgage call reports being insignificant. Regardless, any such costs are subsumed within the costs to secure the services of the qualified individual, described above. A seller-finance lender becoming licensed as a mortgage company would be required to maintain books and records as provided by proposed §56.204, which may have some attendant costs. These potential costs are discussed in this section below, concerning Changes Concerning Books and Records (§56.204). Additionally, any such costs are subsumed within the costs to secure the services of the qualified individual, described above. In accordance with Finance Code §156.301, a seller-finance lender becoming licensed as a mortgage company would be subject to examination by SML, which may have some attendant costs in order for the mortgage company to facilitate the examination. However, the requirement to submit to an examination is imposed by statute, not the proposed rules, and any such costs are therefore indirect costs. Additionally, a mortgage company that does not provide residential mortgage loan origination services (including a seller-finance lender securing the services of a third-party to provide residential mortgage loan origination services) would not have reportable origination activity and would not be subject to regular examinations, thereby reducing indirect costs to related to such examinations. Regardless, any such costs are subsumed within the costs to secure the services of the qualified individual, described above. SML incorporates by reference the Changes Concerning Books and Records (§56.204) section above as if fully set forth herein. The proposed rules related to Changes Concerning Books and Records (§56.204) establish requirements concerning the books and records a mortgage company must maintain. The maintenance of such records may have some attendant costs. However, the statutory requirements of Finance Code §156.301 direct a mortgage company to maintain records sufficient to facilitate an inspection by the SML, not the proposed rules. Moreover, the required records and information are already generated by the mortgage company in complying with other state and federal law or in the ordinary course of doing business. The proposed rules require that a mortgage company maintain certain activity logs (mortgage transaction log (§56.204(c)(1), loan processing and underwriting activity log (§56.204(d), and escheatment log (§56.204(j) and §56.304); however, the information reflected on such logs is generated by the mortgage company in the normal course of doing business and merely requires that the mortgage company transpose such information to the logs. Considering the foregoing, these potential costs are not attributable to the

proposed rules and are indirect costs. Moreover, any such costs are anticipated to be insignificant. SML incorporates by reference the Changes Concerning Reportable Incidents (§56.210) section above as if fully set forth herein. The proposed rules related to Changes Concerning Reportable Incidents (§56.210) establish requirements for a mortgage company to report certain information when it experiences a security event or a catastrophic event that materially affects its operations and may have some attendant costs; however, the information required to be reported is already generated by the mortgage company in complying with other state and federal law or in the ordinary course of doing business. Considering the foregoing, these potential costs are not attributable to the proposed rules and are indirect costs. Moreover, any such costs are anticipated to be insignificant.

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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. The proposed rules related to Changes Concerning Licensing Requirements (§56.100) may result in additional persons seeking licensure, as described in such section; however, any potential growth in license population would be as a result of statutory requirements, not implementation of the proposed rules, and any potential growth is anticipated to be modest and can be absorbed by SML's existing staff (for purposes of this statement, SML estimates 300 additional persons seeking a mortgage company license); (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency. The proposed rules related to Changes Concerning Licensing Requirements (§56.100) may result in additional fees paid to SML to the extent additional persons seek licensure, as described in such section; however, licensing requirements are imposed by statute, not the proposed rules. The proposed rules related to Other Changes Concerning Licensing (Subchapter B) may result in additional fees paid to SML in connection with the insufficient funds fee for failed automated clearing house payments sent to SML, as discussed in such section; however, those fees may be avoided entirely and therefore an increase in fees is not required; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning General Provisions (Subchapter A), Other Changes Concerning Licensing (Subchapter B), Changes Concerning Books and Records (§56.204), Changes Concerning Reportable Incidents (§56.210), and Other Changes Concerning Duties and Responsibilities (Subchapter C) establish various rule requirements, as discussed in such sections; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Other Changes Concerning Duties and Responsibilities (Subchapter C) have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability. The proposed rules related to Changes Concerning Licensing Requirements (§56.100) clarify existing statutory licensing requirements which may encourage additional persons to seek licensure; however, the licensing requirements are imposed by statute, not the proposed rules; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs). As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required. However, SML includes in this proposal a note concerning the potential fiscal impact of indirect costs on small and micro-businesses and rural communities. SML incorporates by reference the Changes Concerning Licensing Requirements (§56.100) and Probable Economic Costs to Persons Required to Comply with the Proposed Rules sections above as if fully set forth herein (including in connection with the Economic Impact Statement and Regulatory Flexibility Analysis sections below).

Economic Impact Statement

With respect to small and micro-businesses, according to data from the Comptroller, of the 2,626 businesses operating in nondepository credit intermediation in Texas, 2,366 (90%) may constitute a small business for purposes of Government Code Chapter 2006. According to the U.S. Census Bureau, of the 1,640 businesses operating in nondepository credit intermediation in Texas, 1,247 (76%) may constitute a micro-business and 1,382 (84%) may constitute a small business for purposes of Government Code Chapter 2006. As such, SML assumes similar percentages of seller-finance lenders that may seek licensure as a result of the statutory clarification made in proposed §56.100 would be a small or micro-business for purposes of Government Code Chapter 2006. Applying the higher percentage (90%) to the Advanced Seller Data Services figures of approximately 308 - 367 seller-finance lenders in Texas doing more than the statutorily exempt number of transactions results in approximately 278 - 331 small or micro-businesses potentially seeking licensure as a result of the statutory clarification made in proposed §56.100. Moreover, seller-finance lenders that are land developers sometimes form separate legal entities for each such development project, making it more likely that such person would be a small or micro-business for purposes of Government Code Chapter 2006. Applying the percentage above (90%) to the indirect cost figures above results in the following cumulative impact on small and micro-businesses concerning licensing costs for the mortgage company license: using the TLDA figures, $8.6m - $17.3m over the first five years, or an average of $1.7m - $3.4m per year; using the Comptroller figure, $4.5m over the first five years, or an average of $909,909 per year; using the U.S. Census figures, $838,530 - $2.8m, or an average of $167,706 - $568,260 per year; and using the Advanced Seller Data Services figures, $533,610 - $635,827.50, or an av-

erage of $106,722 - $127,165.50 per year. Applying that same percentage to the potential indirect costs for the qualified individual's originator license results in the following cumulative impact on small and-micro businesses: using the TLDA figures, $3m - $6.1m, or $612,000 - $1.2m per year; using the Comptroller figure, $1.6m or $321,422.40 per year; using the U.S. Census figures, $296,208 - $1m, or $59,241.60 - $200,736 per year; using the Advanced Seller Data Services figures, $188,496 - $224,601, or $37,699.20 - $44,920.80 per year. Applying that same percentage to the potential indirect costs in terms of employment wages paid to a qualified individual who is a new W2 employee results in the following cumulative impact on small and micro-businesses: using the TLDA figures, $379m - $758m, or an average of $75.8m - $151.6m per year; using the Comptroller figure, $199m, or an average of $39.8m per year; using the Advanced Seller Data Services figures, $23.3m - $27.8m, or an average of $4.6m - $5.5m per year. As discussed in the Probable Economic Costs to Persons Required to Comply with the Proposed Rules section above, the remaining indirect costs are subsumed within the wages paid to the qualified individual who can reasonably be expected to fulfill the duties related to compliance. With respect to rural communities, the development of unimproved land by some seller-finance lenders tends to occur in unpopulated rural areas, or the periphery of population centers, where undeveloped, raw land is available, and restrictions on development are minimal. As a result, SML assumes that many seller-finance lenders that may seek licensure as a result of the statutory clarification made in proposed §56.100 are operating in rural communities and thus the potential indirect costs may be passed on to consumers in those rural communities purchasing land from a seller-financed mortgage lender that seeks licensure as a result of the statutory clarifications made in the proposed rules. Additionally, many rural communities for purposes of Government Code Chapter 2006 do not comport with traditional notions of what it means to be a rural community (e.g., Bellaire, Texas), further complicating this analysis. However, those potential costs only impact a rural community to the extent a business is impacted and therefore the impact on rural communities is indirect. Taking the foregoing into consideration, SML was not able to discern a rational basis for measuring the economic impact of the indirect costs at issue on any particular rural community in the state or how to compare the relative impact on one rural community versus another.

Regulatory Flexibility Analysis

SML considered alternative methods of achieving the objectives of proposed §56.100 while minimizing the indirect costs on small and micro-businesses. With respect to the licensing requirement generally, no alternative methods reasonably exist as the licensing requirements are mandated by statute, not the proposed rules. With respect to the indirect costs concerning license fees, SML considered varying the amount of the license fee depending on the size and complexity of the mortgage company and its operations, including potentially on the basis of whether the business is a small or micro-business. However, SML is required to use the NMLS system to administer the license, and that system does not allow for multiple fee amounts within a single license type. As a result, no alternative methods reasonably exist with respect to reducing licensing costs on small or micro-businesses. With respect to the indirect costs associated with the qualified individual, the requirement for a mortgage company to appoint a qualified individual is mandated by statute. As a result, no alternative methods reasonably exist to eliminate the requirement for the qualified individual for small and micro-businesses. However, as discussed above, in a related rulemaking action proposing new rules for originators in 7 TAC Chapter 55, published elsewhere in this issue of the *Texas Register*, that proposal includes a rule that has the potential to reduce the costs associated with the qualified individual for some small and micro-businesses. Specifically, proposed new 7 TAC §55.107 allows an originator to be sponsored by more than one entity, thereby allowing a seller-finance lender that may seek licensure as a result of the statutory clarification made in proposed §56.100 to continue its practice of securing the services of a third-party originator in a manner that includes potentially contracting with the qualified individual for the third-party originator such that the originator is both qualified individual for the seller-finance lender obtaining the license, and the third-party entity providing origination services. This dynamic is anticipated to reduce the potential indirect costs for a seller-finance lender becoming licensed to appoint a qualified individual for the mortgage company. With respect to potential indirect costs associated with filing mortgage call reports, the requirement to file such reports is mandated by statute. The NMLS system governs all aspects of the mortgage call report, including the frequency and deadlines by which the mortgage call report must be filed, and its content and form. Taking the foregoing into consideration, no alternative methods reasonably exist with respect to eliminating or reducing such reporting. However, as discussed above, to the extent a seller-finance lender becoming licensed continues to secure the services of a third-party originator, that origination data will appear on the third-party originator's call report, and the seller-finance lender securing the services of the third-party will merely report their inactivity, thereby limiting such indirect costs for small and micro-businesses. Similarly, a seller-finance lender becoming licensed that continues to secure the services of a third-party to provide origination services is unlikely to be regularly examined as it will not have sufficient loan production to justify doing so. Instead, the third-party originator providing the origination services would be subject to regular examination, and examination of the seller-finance lender would occur only as indicated by the examination of that third-party originator, or in connection with complaints made by consumers. Considering the foregoing, SML's examination processes already make accommodations for small and micro-businesses that either do not originate in volume, specialize in providing loan processing services to originating entities, or secure the services of a third-party to satisfy the functions of origination.

Takings Impact Assessment

There are no private real property interests affected by the proposed rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§56.1 - 56.6

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary

for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act).

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§56.1. Purpose and Applicability.

This chapter governs SML's administration and enforcement of Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act (other than Subchapters F and G), concerning the licensing, registration, and operations of mortgage companies, financial services companies, credit union subsidiary organizations, auxiliary mortgage loan activity companies, and independent contractor loan processor or underwriter companies (each a residential mortgage loan company). This chapter applies to persons licensed by SML as a residential mortgage loan company or those required to be licensed. Pursuant to Finance Code §156.2012(d) a person registered with SML as a financial services company is subject to the requirements of this chapter as if the company were licensed by SML as a residential mortgage loan company and the rules in this chapter must be construed accordingly.

§56.2. Definitions.

For purposes of this chapter, and in SML's administration and enforcement of Finance Code Chapter 156 (other than Subchapters F and G), the following definitions apply, unless the contest clearly indicates otherwise:

(1) "Application," as used in Finance Code §156.002(14) and paragraphs (9) and (22) of this section means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, or the mortgage loan amount.

(2) "Commissioner" means the savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(3) "Compensation" includes salaries, bonuses, commissions, and any financial or similar incentive.

(4) "Control person" means an individual that directly or indirectly exercises control over a mortgage company. Control is defined by the power, directly or indirectly, to direct the management or policies of a mortgage company, whether through ownership of securities, by contract, or otherwise. Control person includes any person that:

(A) is a director, general partner, or executive officer;

(B) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities;

(C) in the case of a limited liability company, is a manager or managing member; or

(D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the partnership's capital assets.

(5) "Dwelling" means a residential structure that contains one to four units and is attached to residential real estate. The term includes an individual condominium unit, cooperative unit, or manufactured home, if it is used as a residence.

(6) "E-Sign Act" refers to the federal Electronic Signature in Global and National Commerce Act (15 U.S.C. §7001 et seq.).

(7) "Engage in or conduct the business of a mortgage company" or "engage in or conduct the business of residential mortgage loan origination," or any similar derivative or variation of those terms, means to contract for (as provider), provide, or offer to contract for or provide, residential mortgage loan origination services for compensation or gain or with the expectation of compensation or gain.

(8) "Making a residential mortgage loan," or any similar derivative or variation of that term, means when a person determines the credit decision to provide the residential mortgage loan, or the act of funding the residential mortgage loan or transferring money to the borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the residential mortgage loan.

(9) "Mortgage applicant" has the meaning assigned by Finance Code §156.002 and includes a person who contacts a mortgage company or its sponsored originator in response to a solicitation to obtain a residential mortgage loan, and a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application, as provided by paragraph (1) of this section.

(10) "Mortgage banker" has the meaning assigned by Finance Code §156.002.

(11) "Mortgage company" means, for the purposes of this chapter, a "residential mortgage loan company" as defined by Finance Code §156.002.

(12) "Nationwide Multistate Licensing System" or "NMLS" has the meaning assigned by Finance Code §156.002 in defining "Nationwide Mortgage Licensing System and Registry."

(13) "Offers or negotiates the terms of a residential mortgage loan," as used in Finance Code §156.002(14), means, among other things, when an individual:

(A) arranges or assists a mortgage applicant or prospective mortgage applicant in obtaining or applying to obtain, or otherwise secures an extension of consumer credit for another person, in connection with obtaining or applying to obtain a residential mortgage loan;

(B) presents for consideration by a mortgage applicant or prospective mortgage applicant particular residential mortgage loan terms (including rates, fees, and other costs); or

(C) communicates directly or indirectly with a mortgage applicant or prospective mortgage applicant for the purpose of reaching a mutual understanding about particular residential mortgage loan terms.

(14) "Originator" has the meaning assigned by Finance Code §156.002 in defining "residential mortgage loan originator." Paragraphs (13) and (22) of this section do not affect the applicability of such statutory definition. Individuals who are specifically excluded under such statutory definition, as provided by Finance Code §180.002(19)(B), are excluded under this definition and for purposes of this chapter. Persons who are exempt from licensure as provided by Finance Code §180.003 are exempt for purposes of this chapter, except as otherwise provided by Finance Code §180.051.

(15) "Person" has the meaning assigned by Finance Code §180.002.

(16) "Qualified Individual" has the meaning assigned by Finance Code §156.002 in defining "qualifying individual."

(17) "Residential mortgage loan" has the meaning assigned by Finance Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan secured by a structure that is suitable for occupancy as a dwelling but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as a residence.

(18) "Residential real estate" has the meaning assigned by Finance Code §156.002 and includes both improved or unimproved real estate or any portion of or interest in such real estate on which a dwelling is or will be constructed or situated.

(19) "Social media site" means any digital platform accessible by a mortgage applicant or prospective mortgage applicant where the mortgage company or sponsored originator does not typically own the hosting platform but otherwise exerts editorial control or influence over the content within their account, profile, or other space on the digital platform, from which the mortgage company or sponsored originator posts commercial messages or other content designed to solicit business.

(20) "SML" means the Department of Savings and Mortgage Lending.

(21) "State Examination System" or "SES" means an online, digital examination system developed by the Conference of State Bank Supervisors that securely connects regulators and regulated entities on a nationwide basis to facilitate the examination process.

(22) "Takes a residential mortgage loan application," as used in Finance Code §156.002(14) in defining "residential mortgage loan originator," means when an individual receives a residential mortgage loan application for the purpose of facilitating a decision on whether to extend an offer of residential mortgage loan terms to a mortgage applicant or prospective mortgage applicant, whether the application is received directly or indirectly from the mortgage applicant or prospective mortgage applicant, and regardless of whether or not a particular lender has been identified or selected.

(23) "Trigger lead" means information concerning a consumer's credit worthiness (consumer report) compiled by a credit reporting agency (consumer reporting agency), obtained in accordance with the federal Fair Credit Reporting Act (15 U.S.C. §1681b(c)(1)(B)) that is not initiated by the consumer but, instead, is triggered by an inquiry to a consumer reporting agency in response to an application for credit initiated by the consumer in a separate transaction. The term does not include a consumer report obtained by a mortgage company licensed by SML or a mortgage banker registered with SML in response to an application for credit made by a consumer with that mortgage company or mortgage banker or that is otherwise authorized by the consumer.

(24) "UETA" refers to the Texas Uniform Electronic Transactions Act, Business & Commerce Code Chapter 322.

(25) "Wrap lender" has the meaning assigned by Finance Code §159.001.

(26) "Wrap mortgage loan" has the meaning assigned by Finance Code §159.001.

§56.3. Formatting Requirements for Notices.

Any notice or disclosure (notice) required by Finance Code Chapter 156, or this chapter, must be easily readable. A notice is deemed to be easily readable if it is in at least 12-point font and uses a typeface specified by this section. A font point generally equates to 1/72 of an inch. If Finance Code Chapter 156, or this chapter, prescribes a form for the notice, the notice must closely follow the font types used in the form. For example, where the form uses bolded, underlined, or "all caps" font type, the notice or disclosure must be made using those font types. The following typefaces are deemed to be easily readable for purposes of this section (list is not exhaustive and other typefaces may be used; provided, the typeface is easily readable):

(1) Arial;

(2) Aptos;

(3) Calibri;

(4) Century Schoolbook;

(5) Garamond;

(6) Georgia;

(7) Lucinda Sans;

(8) Times New Roman;

(9) Trebuchet; and

(10) Verdana.

§56.4. Electronic Delivery and Signature of Notices.

Any notice or disclosure required by Finance Code Chapter 156, or this chapter, may be provided and signed in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The UETA and E-Sign Act include requirements for electronic signatures and delivery.

§56.5. Computation of Time.

The calculation of any time period measured in days by Finance Code Chapter 156, or this chapter, is made using calendar days, unless clearly stated otherwise. In computing a period of calendar days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.

§56.6. Enforceability of Liens.

A violation of Finance Code Chapter 156, or this chapter, does not render an otherwise lawfully taken lien invalid or unenforceable.

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 26, 2024.

TRD-202403930
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LICENSING

7 TAC §§56.100 - 56.108

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code

Chapter 156, 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 et seq.; federal SAFE Act). §56.100 is also proposed under the authority of, and to implement, Finance Code §156.201 and §156.202. §56.101 and §56.102 are also proposed under the authority of, and to implement, Finance Code: §156.203 and §156.208. §56.103 is also proposed under the authority of, and to implement, Finance Code: §§156.208, 156.2081, and 156.210. §56.104 is also proposed under the authority of, and to implement, Finance Code §156.211. §56.105 is also proposed under the authority of, and to implement, Finance Code §156.210. §56.107 is also proposed under the authority of, and to implement, Finance Code: §156.201(c) and §156.211. §56.108 is also proposed under the authority of, and to implement, Finance Code: §156.201(c).

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§56.100. Licensing Requirements.

(a) License Required. A person, unless exempt as provided by Finance Code §156.202, is required to be licensed as a mortgage company under Finance Code Chapter 156 if the person engages in or conducts the business of a mortgage company or advertises or holds that person out to the public as engaging in or conducting the business of residential mortgage loan origination concerning a loan or prospective loan secured or designed to be secured by residential real estate located in Texas, including, but not limited to:

(1) representing or holding that person out to the public through advertising or other means of communication as a mortgage company; and

(2) receiving compensation for engaging in or conducting the business of residential mortgage loan origination (a person must be licensed at the time it receives compensation even if the compensation relates to services provided when the person was licensed).

(b) Branch Office License Required. A mortgage company must apply for and obtain a branch office license for each office constituting a branch office of the mortgage company for purposes of §56.206 of this title (relating to Office Locations; Remote Work).

(c) Securing the Services of an Originator. A person making a residential mortgage loan (lender), other than a wrap lender making a wrap mortgage loan, or the maker of a secondary mortgage loan subject to the requirements of Finance Code Chapter 342, is not required to be licensed as a mortgage company if the lender secures the services of a licensed mortgage company or registered mortgage banker authorized to originate the loan and that mortgage company or mortgage banker, and not the lender, fulfills the functions of origination by actually providing residential mortgage loan origination services in connection with the loan. However, if the lender owns the residential real estate securing the loan and has exceeded the limit for exempt transactions as provided by Finance Code §156.202(a-1)(3), the lender must be licensed under Finance Code Chapter 156, regardless of whether the lender has secured the services of an originator as provided by this subsection.

§56.101. Applications for Licensure.

(a) NMLS. Applications for licensure must be submitted through NMLS and must be made using the current form prescribed by NMLS. SML has published application checklists on the NMLS Resource Center website (nationwidelicensingsystem.org; viewable on the "State Licensing Requirements" webpage) which outline the requirements to submit an application. Applicants must comply with requirements in the checklist in making the application.

(b) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation as deemed necessary or appropriate to determine that the licensing requirements of Finance Code Chapter 156 are met.

(c) Incomplete Filings; Deemed Withdrawal. An application is complete only if all required information and supporting documentation is included and all required fees are received. If an application is incomplete, SML will send written notice to the applicant specifying the additional information, documentation, or fee required to render the application complete. The application may be deemed withdrawn and any fee paid will be forfeited if the applicant fails to provide the additional information, documentation, or fee within 30 days after the date written notice is sent to the applicant as provided by this subsection.

§56.102. Fees.

(a) License Fees. The license fee is determined by the Commissioner in an amount not to exceed the maximum amount specified by Finance Code §156.203(b), exclusive of fees charged by NMLS, as described in subsection (b) of this section. The Commissioner may establish different fee amounts for a new license versus renewal of the license. The current fee is set in NMLS and posted on SML's website (sml.texas.gov). The Commissioner may change the fee at any time; provided, any fee increase is not effective until notice has been posted on SML's website for at least 30 days. The license fee must be paid in NMLS.

(b) NMLS Fees. NMLS charges a fee to process the application. Such fee is determined by NMLS and must be paid by the applicant at the time it files the application. The current fee is set in NMLS and posted on the NMLS Resource Center website (nationwidelicensingsystem.org).

(c) All fees are nonrefundable and nontransferable.

(d) Insufficient Funds Fee. The Commissioner may collect a fee in an amount determined by the Commissioner not to exceed $50 for any returned check, credit card chargeback, or failed automated clearinghouse (ACH) payment. A fee assessed under this subsection will be invoiced in NMLS and must be paid in NMLS.

§56.103. Renewal of the License.

(a) A license may be renewed on:

(1) timely submission of a completed renewal application (renewal request) in NMLS together with payment of all required fees; and

(2) a determination by SML that the mortgage company continues to meet the minimum requirements for licensure, including the requirements of Finance Code §§156.2041(a), 156.2042, 156.2043(a), or 156.2044(a), as applicable, and 156.208(a-1).

(b) Application of §56.101. A renewal request is a license application subject to the requirements of §56.101 of this title (relating to Applications for Licensure). A renewal request withdrawn under §56.101(c) of this title will be rejected in NMLS.

(c) Commissioner's Discretion to Approve with a Deficiency; Conditional License. The Commissioner may, in his or her sole discretion, approve a renewal request with one or more deficiencies the Commissioner deems to be relatively minor and allow the mortgage company to continue conducting regulated activities while the mortgage company works diligently to resolve the deficiencies. An application approved by the Commissioner under this subsection will be assigned the NMLS license status "Approved - Deficient." Approval under this subsection does not relieve the mortgage company of the obligation to resolve the deficiencies. A license approved under this subsection is deemed to be a conditional license for which the mortgage company,

in order to maintain the license, must resolve the deficiencies within 30 days after the date the license is approved unless an extension of time is granted by the Commissioner. Failure to timely resolve the deficiencies constitutes grounds for the Commissioner to suspend or revoke the license.

(d) Reinstatement. This section applies to a person seeking reinstatement of an expired license (assigned the license status "Terminated - Failed to Renew") during the reinstatement period described by Finance Code §156.2081 and must be construed accordingly. A mortgage company license cannot be renewed beyond the reinstatement period; instead, the person must apply for a new license and comply with all current requirements and procedures governing issuance of a new license.

§56.104. NMLS License Records; Notices Sent to the Mortgage Company.

(a) NMLS License Status. SML is required to assign a status to the license in NMLS. The license status is displayed in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org). SML is limited to the license status options available in NMLS. The NMLS Resource Center (nationwidelicensingsystem.org) describes the available license status options and their meaning.

(b) Amendments to NMLS Records Required. A mortgage company must amend its NMLS license records (MU1 filing) within 10 days after the date of any material change affecting any aspect of the MU1 filing, including, but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to SML establishing the name change);

(2) the addition or elimination of an assumed name (a/k/a trade name or "doing business as" name; which must be accompanied by a certificate of assumed business name or other documentation establishing or abandoning the assumed name);

(3) the contact information under "Identifying Information":

(4) the contact information under "Resident/Registered Agent";

(5) the contact information under "Contact Employee Information"; and

(6) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(c) Amendments to MU2 Associations Required. A mortgage company must cause the individuals who are required to register an association with the mortgage company (control persons and Qualified Individuals) to make the proper filings in NMLS using the current form prescribed by NMLS (MU2 filing) and must ensure such associations are amended within 10 days after the date of any material change affecting such associations.

(d) Notices Sent to the Mortgage Company. Any correspondence, notification, alert, message, official notice or other written communication from SML will be sent to the mortgage company in accordance with this subsection using the mortgage company's current contact information of record in NMLS unless another method is required by other applicable law.

(1) Service by Email. Service by email is made using the email address the mortgage company has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by email is complete on transmission of the email to the mortgage company's email service provider; provided, SML does not receive a "bounce back" notification, or similar, from the email service provider indicating that delivery was not effective. The mortgage company must monitor such email account and ensure that emails sent by SML are not lost in a "spam folder" or similar, or undelivered due to intervention by a "spam filter" or similar. A mortgage company is deemed to have constructive notice of any emails sent by SML to the email address described by this paragraph. A mortgage company is further deemed to have constructive notice of any NMLS system notifications sent to it by email.

(2) Service by Mail. Service by mail is made using the address the mortgage company has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the mortgage company by mail and the document communicates a deadline by or a time during which the mortgage company must perform some act, such deadline or time period for action is extended by 3 days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

§56.105. Conditional License.

(a) Conditional License; Terms and Conditions. The Commissioner may, in his or her sole discretion, issue a license on a conditional basis. A conditional license will be assigned the license status "Approved - Conditional" in NMLS. Reasonable terms and conditions for a conditional license include:

(1) requiring the mortgage company to undergo additional credit checks or provide evidence of satisfaction concerning a debt, judgment, lien, child support obligation, or other financial delinquency affecting its financial condition;

(2) requiring the mortgage company to undergo additional criminal background checks or provide information on a periodic basis or upon request concerning the status of a pending criminal proceeding that might affect its eligibility for licensure;

(3) requiring the mortgage company to take other specific action or provide other specified information to address a known deficiency; and

(4) requiring the mortgage company to surrender the license upon the occurrence of an event that would render the mortgage company ineligible for the license.

(b) Probated Suspensions and Revocations. A license subject to a probated suspension or revocation is deemed to be a conditional license.

(c) Conditional License in Lieu of Denial. The Commissioner may issue a license on a conditional basis in lieu of seeking denial of the license where the person applying for the license has the capacity to resolve the deficiency serving as grounds for the denial in a reasonable period of time. The granting of a license under this subsection is a voluntarily forbearance from seeking denial of the license and does not operate as a waiver by the Commissioner of any grounds he or she has to seek denial of the license. The Commissioner is under no obligation to continue the license on a conditional basis and may seek denial in the future based on the same or similar circumstances that existed at the time the conditional license was granted.

§56.106. Surrender of the License.

(a) Surrender Request. A mortgage company may seek surrender of the license by filing a license surrender request (request) in NMLS. The request must be made using the current form prescribed by

NMLS. SML will review the request and determine whether to grant it. SML may not grant the request if, among other reasons:

(1) the mortgage company is the subject of a pending or contemplated examination, inspection, investigation, or disciplinary action;

(2) the mortgage company is in violation of an order of the Commissioner;

(3) the mortgage company has failed to pay any administrative penalty, fee, charge, or other indebtedness owed to SML; or

(4) the mortgage company has failed to file mortgage call reports as required by §56.205 of this title (relating to Mortgage Call Reports).

(b) Inactive Status Pending Surrender. If SML does not grant the request or requires additional time to consider the request, the request will be left pending while the issue preventing SML from granting the request is resolved or lapses. During this time, the mortgage company' s license will be assigned the license status " Approved - Inactive" in NMLS.

§56.107. Sponsorship of Originator; Responsibility for Originator's Actions.

(a) Sponsorship Required. A mortgage company acts through one or more originators who must be sponsored by the mortgage company in NMLS. To sponsor an originator, the mortgage company must first register a relationship with the originator in NMLS. When a relationship has been registered, the mortgage company may then file a request in NMLS to establish sponsorship of the originator. An originator must make corresponding filings in NMLS to establish such sponsorship. Sponsorship is not effective until the sponsorship request has been reviewed and approved by SML. A mortgage company must not allow an individual to act on its behalf in the capacity of an originator until such sponsorship has been established and is effective. Information about how to file for sponsorship is available on the NMLS Resource Center website (nationwidelicensingsystem.org).

(b) Responsibility for Originator's Actions. By sponsoring an originator, or otherwise allowing an individual to act on its behalf in the capacity of an originator, the mortgage company and the Qualified Individual for the mortgage company each assumes responsibility for the actions of such originator or individual acting in the capacity of an originator. As provided by Finance Code §156.201, all violations of law by an originator or individual acting in the capacity of an originator are deemed to be attributable and imputed to the mortgage company sponsoring the originator or for which the individual acting as an originator was allowed to act, and the Commissioner may seek disciplinary action against the mortgage company, the Qualified Individual for the mortgage company, and the originator simultaneously for the same conduct giving rise to the violation. As a result, a mortgage company and its Qualified Individual are both charged with knowledge of and must ensure compliance by their sponsored originators with the requirements of Finance Code Chapters 157 and 180, and of SML 's rules concerning originators in Chapter 55 of this title (relating to Residential Mortgage Loan Originators).

(c) Termination of Sponsorship. Sponsorship may be terminated by the mortgage company or the sponsored originator. If sponsorship is terminated, the party terminating the sponsorship must immediately notify SML of the termination by making a filing in NMLS to show the sponsorship as terminated in the system, as provided by Finance Code §156.211 and §157.019.

(d) Failure to Maintain Sponsored Originator; Inactive Status. If a mortgage company does not have sponsored originators that are licensed, the license will revert to an inactive status ("Approved - Inactive") until a new sponsorship becomes effective, during which time the mortgage company must not conduct regulated activities.

§56.108. Qualified Individual.

(a) Qualified Individual Required. A mortgage company must appoint at least one licensed originator to be the mortgage company's Qualified Individual. As provided by Finance Code §156.002, the Qualified Individual is a personal representative of the mortgage company and is deemed to have authority to bind the mortgage company concerning its operations in Texas. To serve as the Qualified Individual, the originator must hold his or her license in a status which enables him or her to engage in regulated activities with the license and must be sponsored by the mortgage company for which he or she serves as the Qualified Individual. The contact information for the Qualified Individual listed by the mortgage company in its license records (MU1 filing), in the "Qualifying Individuals" section, must match the principal address (main address) of the mortgage company listed in the "Identifying Information" section of the MU1 filing. A mortgage company may appoint more than one originator as Qualified Individual. If a mortgage company appoints more than one Qualified Individual, each Qualified Individual is deemed to serve concurrently and is responsible for all of the originators sponsored by the mortgage company or other individuals acting on its behalf in the capacity of an originator.

(b) Consent Required. The appointment of the Qualified Individual must be consented to by the originator. The originator must acknowledge and confirm his or her consent by making a corresponding filing in NMLS to reflect such appointment, using the current form prescribed by NMLS.

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 26, 2024.

TRD-202403931
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§56.200 - 56.206, 56.210

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act). §56.200 is also proposed under the authority of, and to implement, Finance Code §156.004. §56.201 is also proposed under the authority of, and to implement, Finance Code §156.105. §§56.202, 56.203, and 56.210 are also proposed under the authority of, and to implement, Finance Code §156.303(a)(2) and (3). §56.204 is also proposed under the authority of, and to implement, Finance Code: §156.102(c) and §156.301. §56.205 is also proposed under the authority of, and to implement,

Finance Code §156.213. §56.206 is also proposed under the authority of, and to implement, Finance Code §156.212.

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§56.200. Required Disclosures.

(a) Purpose. This section clarifies and establishes requirements related to the disclosure a mortgage company is required to make under Finance Code §156.004.

(b) Specific Notice to Applicant. A mortgage company must send written notice to a mortgage applicant concerning SML's regulatory oversight. The notice must be sent at the time the mortgage company and its sponsored originator receives the initial application for a residential mortgage loan. The notice may be provided to the mortgage applicant by any means allowing for the mortgage company to capture and maintain records reflecting timely delivery, as required by §56.204(c)(2)(A)(iv) of this title (relating to Books and Records). The notice may be signed and dated by the mortgage applicant to evidence receipt. The notice must be in the form adopted by this subsection. However, the form may be modified by adding additional identifying information for the transaction (e.g., loan identification number, or the name and NMLS ID of the mortgage company or the investor); provided, any information added to the form is not misleading and does not contradict or frustrate the purpose of the disclosure:
Figure: 7 TAC §56.200(b)

(c) Posted Notice on Websites. A mortgage company must post a notice concerning SML's regulatory oversight on each website of the mortgage company, other than a social media site, that is accessible by a mortgage applicant or prospective mortgage applicant and either used to conduct residential mortgage loan origination business or from which the mortgage company advertises to solicit such business, as provided by §56.203 of this title (relating to Advertising). The notice must be in the current form prescribed by SML and posted on its website (sml.texas.gov). The notice must be displayed on the initial or home page of the website (typically the base-level domain name) or contained in a linked webpage with the link to such webpage displayed on the initial or home page.

(d) Disclosures in Correspondence. All correspondence sent to a mortgage applicant must include:

(1) the mortgage company' s name and NMLS ID; and

(2) the mortgage company' s website address, if it has a website.

§56.201. Conditional Pre-Qualification and Conditional Approval Letters.

(a) Conditional Pre-Qualification Letter. Except as provided by subsection (c) of this section, when provided to a mortgage applicant or prospective mortgage applicant, written confirmation of conditional pre-qualification (conditional pre-qualification letter) must include the information in Form A, Figure: 7 TAC §56.201(a). The information must be provided using Form A or an alternate form approved by the mortgage company that includes all of the information found on Form A. There is no requirement to issue a conditional pre-qualification letter. Form A or an alternate form may be modified by adding any of the following as needed:
Figure: 7 TAC §56.201(a)

(1) Any additional aspects of the loan as long as not misleading;

(2) Any additional items that the originator has reviewed in determining conditional qualifications; or

(3) Any additional terms, conditions, and requirements.

(b) Conditional Approval Letter. When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan approval on the basis of credit worthiness, but not on the basis of collateral (conditional approval letter), must include the information in Form B, Figure: 7 TAC §56.201(b). The information must be provided using Form B or an alternate form approved by the mortgage company that includes all of the information found on Form B. There is no requirement to issue a conditional approval letter. Form B or an alternate form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or a disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional approval letter must not be issued unless the mortgage company or its sponsored originator has verified that, absent any material changes prior to closing, the mortgage applicant or prospective mortgage applicant has satisfied all loan requirements related to credit, income, assets, and debts. Verification may be conducted manually or by electronic means.
Figure: 7 TAC §56.201(b)

(c) Firm Offers of Credit. Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined by 15 U.S.C. §1681a(l).

(d) Issuance by the Originator. A conditional pre-qualification letter or conditional approval letter must be issued and signed by the mortgage company's sponsored originator acting on behalf of the mortgage company to originate the prospective residential mortgage loan.

§56.202. Fraudulent, Misleading, or Deceptive Practices and Improper Dealings.

(a) Fraudulent, Misleading, or Deceptive Practices. The following conduct by a mortgage company or its sponsored originators constitutes fraudulent and dishonest dealings for purposes of Finance Code §156.303(a)(3):

(1) knowingly misrepresenting the mortgage company's or sponsored originator's relationship to a mortgage applicant or any other party to a residential mortgage loan transaction or prospective residential mortgage loan transaction;

(2) knowingly misrepresenting or understating any cost, fee, interest rate, or other expense to a mortgage applicant or prospective mortgage applicant in connection with a residential mortgage loan;

(3) knowingly overstating, inflating, altering, amending, or disparaging any source or potential source of residential mortgage loan funds in a manner which disregards the truth or makes any knowing and material misstatement or omission;

(4) knowingly misrepresenting the lien position of a residential mortgage loan or prospective residential mortgage loan;

(5) knowingly participating in or permitting the submission of false or misleading information of a material nature to any person in connection with a decision by that person whether to make or acquire a residential mortgage loan;

(6) as provided by Regulation X (12 C.F.R. §1024.14), brokering, arranging, or making a residential mortgage loan for which the mortgage company or sponsored originator receives compensation for services not actually performed or where the compensation received bears no reasonable relationship to the value of the services actually performed;

(7) recommending or encouraging default or delinquency or the continuation of an existing default or delinquency by a mortgage

applicant on any existing indebtedness prior to closing a residential mortgage loan which refinances all or a portion of such existing indebtedness;

(8) altering any document produced or issued by SML, unless otherwise permitted by statute or a rule of SML;

(9) using a trigger lead in a misleading or deceptive manner by, among other things:

(A) failing to state in the initial communication with the consumer:

(i) the mortgage company's name;

(ii) a brief explanation of how the mortgage company obtained the consumer's contact information to make the communication (i.e., an explanation of trigger leads);

(iii) that the mortgage company is not affiliated with the creditor to which the consumer made the credit application that resulted in the trigger lead; and

(iv) that the purpose of the communication is to solicit new business for the mortgage company;

(B) contacting a consumer who has opted out of prescreened offers of credit under the federal Fair Credit Reporting Act (FCRA; 12 U.S.C. §1681b(e)); or

(C) failing in the initial communication with the consumer to make a firm offer of credit as provided by the FCRA (12 U.S.C. §1681a(l) and §1681b(c)); or

(10) engaging in any other practice which the Commissioner, by published interpretation, has determined is fraudulent, misleading, or deceptive.

(b) Improper or Unfair Dealings. The following conduct by a mortgage company or its sponsored originators constitutes improper dealings for purposes of Finance Code §156.303(a)(3):

(1) acting negligently in performing an act requiring a license under Finance Code Chapters 156, 157, or 180;

(2) violating any provision of a local, State of Texas, or federal constitution, statute, rule, ordinance, regulation, or final court decision that governs the same or a closely related activity, transaction, or subject matter that is governed by the provisions of Finance Code Chapters 156, 157, or 180, including, but not limited to:

(A) Consumer Credit Protection Act, Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.) and Regulation B (12 C.F.R. §1002.1 et seq.);

(B) Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.);

(C) Regulation N (12 C.F.R. §1014.1 et seq.);

(D) Gramm-Leach-Bliley Act (GLBA; 15 U.S.C. §6801 et seq.), Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information rules (16 C.F.R. §313.1 et seq.);

(E) Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(F) Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.);

(G) Consumer Credit Protection Act, Truth in Lending Act (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.);

(H) the FTC's Standards for Safeguarding Customer Information rule (16 C.F.R. §314.1 et seq.);

(I) Finance Code Chapter 159 and Chapter 59 of this title; and

(J) Texas Constitution, Article XVI, §50 and Chapter 153 of this title;

(3) soliciting by phone a consumer who has placed his or her contact information on the national do-not-call registry maintained by the Federal Trade Commission (FTC), unless otherwise allowable under the FTC's Telemarketing Sales Rule (16 C.F.R. §310.4(b)(iii)(B));

(4) Issuing a conditional pre-qualification letter or conditional approval letter under §56.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters) that does not comply with the required form for the letter or is inaccurate, erroneous, or negligently-issued;

(5) representing to a mortgage applicant that a charge or fee which is payable to the mortgage company or sponsored originator is a "discount point" or otherwise benefits the mortgage applicant unless the loan closes and:

(A) the mortgage company is making the residential mortgage loan (lender); or

(B) the mortgage company is not the lender but demonstrates by clear and convincing evidence that the lender has charged or collected discount points or other fees which the mortgage company actually paid to the lender on behalf of the mortgage applicant to buy down the interest rate on the residential mortgage loan;

(6) failing to accurately respond within a reasonable time period to reasonable questions from a mortgage applicant concerning the scope and nature of the mortgage company's services and any costs;

(7) Allowing a licensed originator to act on behalf of the mortgage company when the originator is not sponsored by the mortgage company or otherwise holds his or her license in an inactive status; or

(8) using the services of a mortgage company or mortgage banker to provide loan processing services when the mortgage company or mortgage banker providing the services holds its license or registration in an inactive status.

(c) Related Transactions. A mortgage company engages in fraudulent and dishonest dealings for purposes of Finance Code §156.303(a)(3) when, in connection with the origination of a residential mortgage loan:

(1) the mortgage company or sponsored originator:

(A) offers other goods or services to a mortgage applicant in a separate but related transaction; and

(B) the mortgage company or sponsored originator engages in fraudulent, misleading, or deceptive acts in the related transaction; or

(2) the mortgage company or sponsored originator:

(A) affiliates with another person that provides goods or services to a mortgage applicant in a separate but related transaction;

(B) the affiliated person engages in fraudulent, misleading, or deceptive acts in that transaction;

(C) the mortgage company or sponsored originator knew or should have known of the fraudulent, misleading, or deceptive acts of the affiliated person; and

(D) the mortgage company or sponsored originator failed to take appropriate steps to prevent or limit the fraudulent, misleading, or deceptive acts.

(d) Sharing or Splitting Origination Fees with the Mortgage Applicant. A mortgage company and its sponsored originators must not offer or agree to share or split any residential mortgage loan origination fees with a mortgage applicant, rebate all or part of an origination fee to a mortgage applicant, reduce their established compensation to benefit a mortgage applicant, or otherwise provide money, a cash equivalent, or anything of value to a mortgage applicant in connection with providing residential mortgage loan origination services unless otherwise allowable under Regulation X (12 C.F.R. §1024.14) and Regulation Z (12 C.F.R. §1026.36(d)). A sponsored originator acting in the dual capacity of an originator and real estate broker or sales agent licensed under Occupations Code Chapter 1101 may rebate their fees legitimately earned and derived from their real estate brokerage or sales agent services to the extent allowable under applicable law governing real estate brokers or sales agents; provided, the payment or other transfer described by this subsection occurs as a part of closing and is properly reflected in the closing disclosure. If a payment or other transfer described by this subsection occurs after closing, a rebuttable presumption exists that the payment or transfer is derived from the originator's fees for residential mortgage loan origination services and constitutes an improper sharing or splitting of fees with the mortgage applicant. The rebuttable presumption may only be overcome by clear and convincing evidence established by the mortgage company or sponsored originator that the payment or transfer is instead derived from fees for real estate brokerage or sales agent services. A violation of this subsection is deemed to constitute improper dealings for purposes of Finance Code §156.303(a)(3).

§56.203. Advertising.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a residential mortgage loan transaction or is otherwise designed to solicit residential mortgage loan origination business for the mortgage company or its sponsored originators. The term includes "flyers," business cards, or other handouts, and messages or posts made on a social media site. The term does not include:

(A) any advertisement which indirectly promotes a residential mortgage loan transaction and contains only the name of the mortgage company or sponsored originator and not any contact information with the exception of a website address, such as on cups, pens or pencils, shirts or other clothing (including company uniforms and sponsored youth league jerseys), or other promotional items of nominal value;

(B) any rate sheet, pricing sheet, or similar proprietary information provided to realtors, builders, and other commercial entities that is not intended for distribution to consumers; or

(C) signs located on or adjacent to the mortgage company's licensed office as provided by §56.206 of this title (relating to Office Locations; Remote Work).

(2) "Team logo" means a logo, symbol, or other graphic used to identify the group using a team name.

(3) "Team name" means a name other than the mortgage company's legal name or a properly registered assumed name typically used by a geographically or administratively distinct group of employees working for the mortgage company as a division or team within the larger organization (e.g., the employees of a branch office).

(b) Compliance with Federal Law. A mortgage company or sponsored originator that advertises rates, terms, or conditions must comply with the requirements of Regulation N (12 C.F.R. §1014.1 et seq.), and Regulation Z (12 C.F.R. §1026.24).

(c) Required Content. Except as provided by subsections (d) and (e) of this section, an advertisement must contain:

(1) the mortgage company's name and NMLS ID;

(2) the mortgage company's website address, if it has a website; and

(3) the sponsored originator's name and NMLS ID.

(d) Advertising Directly by a Mortgage Company. A mortgage company may advertise directly to the public and is not required to advertise through a sponsored originator. The requirements of subsection (c)(3) of this section do not apply to an advertisement made directly by a mortgage company.

(e) Advertising on Social Media Sites. If the mortgage company or sponsored originator advertises on a social media site, the requirements of subsection (c) of this section may be met by prominently displaying the required information on the home page, profile page, or similar, on such social media site so that the viewer can quickly discern the information without reviewing various historical content posted by the mortgage company or sponsored originator on the social media site.

(f) Use of Team Names and Team Logos. A mortgage company and its sponsored originators may use team names and team logos in advertisements if the following requirements are met:

(1) Team names and team logos are permitted for advertising purposes only. A team name or team logo may not be used to conduct residential mortgage loan origination business. For clarity, a team name or team logo may not appear on any documentation sent to the mortgage applicant in connection with a residential mortgage loan or on any documentation in the residential mortgage loan file a mortgage company is required to maintain under §56.204(c)(2) of this title (relating to Books and Records).

(2) The mortgage company's legal name or an assumed name of the mortgage company and its NMLS ID must be used with the team name or team logo, in substantially equivalent prominence, and must be connected with an explanatory word or phrase that clearly links the two (e.g., "(team name) of (mortgage company name and NMLS ID)" or "(team name) powered by (mortgage company name and NMLS ID")). The information must be presented in a manner that makes it readily apparent to the viewer what mortgage company is making the advertisement. The mortgage company may not obscure the information by, among other things, using graphics, shading, or coloration to deemphasize or mask the appearance of the mortgage company's name and NMLS ID. If the advertisement is made on a social media site, the requirements of this paragraph may be met by prominently displaying the information on the home page, profile page, or similar, on such social media site so that the viewer can quickly discern the information without reviewing various historical content posted by the mortgage company or sponsored originator on the social media site.

(3) If a team logo is used, it must be used with the team name, unless the team name is contained in the team logo, and if so, the team logo may be used without the team name.

§56.204. Books and Records.

(a) Purpose and Applicability. This section clarifies and establishes requirements related to the books and records a mortgage company and its sponsored originators are required to keep under Finance Code §156.301. Subsection (c) of this section applies to a mortgage company and its sponsored originators in connection with the origination of residential mortgage loans. Subsection (d) of this section applies to a mortgage company and its sponsored originators in connection with the provision of third-party loan processing or underwriting services (including independent loan processor or underwriter companies).

(b) Maintenance of Records, Generally. In order to ensure a mortgage company and its sponsored originators have all records necessary to facilitate an inspection (including an examination) by SML of the mortgage company and its sponsored originators, enable SML to investigate complaints against a mortgage company or its sponsored originators, and otherwise ensure compliance with the requirements of Finance Code Chapter 156, and this chapter, a mortgage company and its sponsored originators must maintain records as prescribed by this section.

(1) Format. The records required by this section may be maintained using a physical, electronic, or digitally-imaged record-keeping system, or a combination thereof. The records must be accurate, complete, current, legible, and readily accessible and sortable.

(2) Location. A mortgage company and its sponsored originators must ensure the records required by this section (or true and correct copies thereof) are maintained at or are otherwise readily accessible from either the main office of the mortgage company or the location the mortgage company has designated in its MU1 filing under "Books and Records Information" in NMLS. (For purposes of this section "main office" has the meaning assigned by §56.206 of this title (relating to Office Locations; Remote Work.)

(3) Production of Records; Disciplinary Action. All records required by this section must be maintained in good order and produced to SML upon request. Failure by a mortgage company or its sponsored originators to produce records upon request after a reasonable time for compliance may result in disciplinary action against the mortgage company or its sponsored originators, including, but not limited to, suspension or revocation of the mortgage company's or sponsored originator's license.

(4) Retention Period. All records required by this section must be maintained for 3 years or such longer period as may be required by other applicable law. If a mortgage company terminates operations, the mortgage company must, within 10 days after the date the mortgage company terminates operations, provide SML with written notice of where the records required by this section will be maintained for the required period. If such records are transferred to another mortgage company licensed by SML, the transferee must provide SML with written notice within 10 days after the date it receives such records.

(5) Maintenance by the Mortgage Company. A mortgage company is required to maintain records on behalf of the originators it sponsors in connection with work performed by the originator for that mortgage company.

(6) Conflicting Law. If the requirements of other applicable law governing recordkeeping by the mortgage company or its sponsored originators differ from the requirements of this section, such other applicable law prevails only to the extent this section conflicts with the requirements of this section.

(c) Required Records (Origination). A mortgage company and its sponsored originators must maintain the following items in connection with the origination of residential mortgage loans by the mortgage company:

(1) Mortgage Transaction Log. A mortgage transaction log maintained on a current basis (meaning all entries must be made within 7 days after the date on which the events they relate to occurred, and updated as the information changes) setting forth, at a minimum (the log may include additional information, provided, the information is readily sortable as required by subsection (b)(1) of this section):

(A) full name of each mortgage applicant (last name, first name);

(B) application/loan identification number assigned by the mortgage company;

(C) loan identification number assigned by the lender, if different than subparagraph (B) of this paragraph;

(D) date of the initial loan application;

(E) address of the subject property (street address, city, state, zip code);

(F) interest rate;

(G) description of the purpose for the loan (e.g., purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.);

(H) loan product (conventional, FHA, VA, reverse, etc.);

(I) full name of the lender that initially funded or acquired the loan and their NMLS ID, if applicable;

(J) full name of the originator who took the initial loan application and his or her NMLS ID;

(K) closing date;

(L) lien position (e.g., first lien, second lien, or wrap mortgage);

(M) description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence)); and

(N) description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied);

(2) Residential Mortgage Loan File. For each residential mortgage loan transaction or prospective residential mortgage loan transaction, a residential mortgage loan file containing, at a minimum:

(A) All Transactions. For all transactions, the following records:

(i) the initial and any final loan application (including any attachments, supplements, or addendum thereto), signed and dated by each mortgage applicant and the sponsored originator, and any other written or recorded information used in evaluating the application, as required by Regulation B (12 C.F.R. §1002.4(c));

(ii) the initial and any revised good faith estimate (Regulation X, 12 C.F.R. §1024.7), integrated loan estimate disclosure (Regulation Z, 12 C.F.R. §1026.37), or similar, provided to the mortgage applicant;

(iii) the final settlement statement (Regulation X, 12 C.F.R §1024.8), closing statement, or integrated closing disclosure (Regulation Z, 12 C.F.R. §1026.19(f) and §1026.38);

(iv) the disclosure required by Finance Code §156.004 and §56.200(b) of this title (relating to Required Disclosures), and records reflecting timely delivery of the disclosure to the mortgage applicant;

(v) if provided to a mortgage applicant or prospective mortgage applicant, the conditional pre-qualification letter, or similar, as specified by Finance Code §156.105 and §56.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters);

(vi) if provided to a mortgage applicant or prospective mortgage applicant, the conditional approval letter, or similar, as specified by Finance Code §156.105 and §56.201 of this title;

(vii) each item of correspondence, all evidence of any contractual agreement or understanding, and all notes and memoranda of conversations or meetings with a mortgage applicant or any other party in connection with the loan application or its ultimate disposition (e.g., fee agreements, rate lock agreements, or similar documents);

(viii) if the loan is a "home loan" as defined by Finance Code §343.001, the notice of penalties for making a false or misleading written statement required by Finance Code §343.105, signed at closing by each mortgage applicant;

(ix) if the transaction is a purchase money or wrap mortgage loan transaction, the real estate sales contract or real estate purchase agreement for the sale of the residential real estate;

(x) consumer reports or credit reports obtained in connection with the residential mortgage loan or prospective residential mortgage loan, and if a fee is paid by or imposed on the mortgage applicant for such consumer report or credit report, invoices and proof of payment for the purchase of the consumer report or credit report;

(xi) appraisal reports or written valuation reports used to determine the value of the residential real estate secured or designed to be secured by the loan, and if a fee is paid by or imposed on the mortgage applicant for such appraisal report or written valuation report, invoices and proof of payment for the appraisal report or written valuation report;

(xii) invoices and proof of payment for any third-party fees paid by or imposed on the mortgage applicant;

(xiii) refund checks issued to the mortgage applicant;

(xiv) if applicable, the risk-based pricing notice required by Regulation V (12 C.F.R. §1022.72);

(xv) if applicable, invoices for independent loan processors or underwriters;

(xvi) if the mortgage company or sponsored originator acts in a dual capacity as the loan originator and real estate broker, sales agent, or attorney in the transaction, the disclosure of multiple roles in a consumer real estate transaction, signed and dated by each mortgage applicant, as required by Finance Code §156.303(a)(13) and §157.024(a)(10);

(xvii) the initial privacy notice required by Regulation P (12 C.F.R. §1016.4) or the Federal Trade Commission's Privacy of Consumer Financial Information rules (16 C.F.R. §313.4);

(xviii) the mortgage applicant's written authorization to receive electronic documents, as required by the E-Sign Act and Regulation Z (12 C.F.R. §1026.17(a)(1));

(xix) records reflecting compensation paid to employees or independent contractors in connection with the transaction;

(xx) any other agreements, notices, disclosures, or affidavits required by federal or state law in connection with the transaction; and

(xxi) any written agreements or other records governing the origination of the residential mortgage loan or prospective residential mortgage loan;

(B) Lender Transactions. For transactions where the mortgage company made the loan (lender), the following records:

(i) the promissory note, loan agreement, or repayment agreement, signed by the borrower (mortgage applicant);

(ii) the recorded deed of trust, contract, security deed, security instrument, or other lien transfer document, signed by the borrower (mortgage applicant);

(iii) any verifications of income, employment, or deposits obtained in connection with the loan;

(iv) copies of any title insurance policies with endorsements or title search reports obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such title insurance policies or title search reports, invoices and proof of payment for the title insurance policy or title search report; and

(v) if applicable, the flood determination certificate obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such flood certificate, invoices and proof of payment for the flood determination certificate;

(C) Truth in Lending Act (TILA). For transactions that are subject to the requirements of TILA (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.), the following records:

(i) the initial Truth-in-Lending statement for home equity line of credit and reverse mortgage transactions required by Regulation Z (12 C.F.R. §1026.19);

(ii) if the transaction is an adjustable rate mortgage transaction, the adjustable rate mortgage program disclosures;

(iii) records relating to the mortgage applicant's ability to repay the loan, as required by Regulation Z (12 C.F.R. §1026.43(c));

(iv) if the mortgage applicant is permitted to shop for a settlement service, the written list of providers required by Regulation Z (12 C.F.R. §1026.19(e)(1)(vi)(C));

(v) the notice of intent to proceed with the transaction required by Regulation Z (12 C.F.R. §1026.19(e)(2)(i)(A));

(vi) if applicable, records related to a changed circumstance required by Regulation Z (12 C.F.R. §1026.19(e)(3)(iv));

(vii) the notice of right to rescission required by Regulation Z (12 C.F.R. §1026.15 or §1026.23);

(viii) for high-cost mortgage loans, the disclosures required by Regulation Z (12 C.F.R. §1026.32(c));

(ix) for high-cost mortgage loans, the certification of counseling required by Regulation Z (12 C.F.R. §1026.34(a)(5)(i));

(x) for home equity line of credit transactions:

(I) the account-opening disclosure required by Regulation Z (12 C.F.R. §1026.6(a));

(II) the early disclosure statement required by Regulation Z (12 C.F.R. §1026.40(d));

(III) the Home Equity Line of Credit Brochure required by Regulation Z (12 C.F.R. §1026.40(e)); and

(xi) any other notice or disclosure required by TILA or Regulation Z;

(D) Real Estate Settlement Procedures Act (RESPA). For transactions that are subject to the requirements of RESPA (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.), the following records:

(i) records reflecting delivery of the special information booklet required by Regulation X (12 C.F.R. §1024.6);

(ii) any affiliated business arrangement disclosure statement provided to the mortgage applicant in accordance with Regulation X (12 C.F.R. §1024.15);

(iii) records reflecting delivery of the list of homeownership counseling organizations required by Regulation X (12 C.F.R. §1024.20); and

(iv) any other notice or disclosure required by RESPA or Regulation X;

(E) Equal Credit Opportunity Act - Transactions Not Resulting in Approval. For residential mortgage loan applications where a notice of incompleteness is issued, a counteroffer is made, or adverse action is taken, as provided by Regulation B (12 C.F.R. §1002.1 et seq.), the following records, as applicable:

(i) the notice of incompleteness required by Regulation B (12 C.F.R. §1002.9(c)(2));

(ii) the counteroffer letter sent to the mortgage applicant in accordance with Regulation B (12 C.F.R. §1002.9); and

(iii) the adverse action notification (a/k/a turndown letter) required by Regulation B (12 C.F.R. §1002.9(a));

(F) Home Equity Transactions. For home equity loan transactions or home equity line of credit transactions, the following records (references in this subparagraph to Section 50 refer to Article XVI, Section 50, Texas Constitution; see also subparagraph (C)(x) of this paragraph):

(i) the preclosing disclosures required by Section 50(a)(6)(M)(ii) and §153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii); as provided by such section, the closing disclosure or account-opening disclosures required by Regulation Z fulfills this requirement);

(ii) the consumer disclosure required by Section 50(g) and §153.51 of this tile (relating to Consumer Disclosure: Section 50(g));

(iii) if an attorney-in-fact executes the closing documents on behalf of the owner or owner's spouse, a copy of the executed power of attorney and any other documents evidencing execution of such power of attorney at the permanent physical address of an office of the lender, an attorney at law, or a title company, as required by §153.15 of this title (relating to Location of Closing: Section 50(a)(6)(N));

(iv) if the borrower (mortgage applicant) uses the proceeds of the loan to pay off a non-homestead debt with the same lender, a written statement, signed by the mortgage applicant, indicating the proceeds of the home equity loan were voluntarily used to pay such debt (see Section 50(a)(6)(Q)(i));

(v) notice of the right of rescission, as required by Section 50(a)(6)(Q)(viii) (as provided by §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the notice of right of rescission required by TILA and Regulation Z fulfills this requirement);

(vi) the written acknowledgement as to the fair market value of the homestead property, as required by Section 50(a)(6)(Q)(ix) and §153.26 of this title (relating to Acknowledgement of Fair Market Value: Section 50(a)(6)(Q)(ix));

(vii) any discount point acknowledgement form used by the lender to substantiate that the discount points are bona fide as required by §153.5 of this title (relating to Two Percent Fee Limitation: Section 50(a)(6)(E));

(viii) the Texas Home Equity Affidavit and Agreement (Fannie Mae Form 3185), or similar;

(ix) for home equity line of credit transactions, the Texas Home Equity Line of Credit Agreement or repayment agreement;

(x) if the home equity loan is refinanced into a non-home equity loan, the Texas Notice Concerning Refinance of Existing Home Equity to Non-Home Equity Loan, as required by Section 50(f)(2)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f));

(G) Wrap Mortgage Loans. For wrap mortgage loan transactions subject to the requirements of Finance Code Chapter 159, the following records:

(i) the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure), signed and dated by each mortgage applicant, and any foreign language disclosure statement required by Finance Code §159.102;

(ii) the disclosure statement required by Property Code §5.016, provided to each existing lienholder (the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure) referenced in clause (i) of this subparagraph fulfills this requirement if it was provided to each existing lienholder); and

(iii) documents evidencing that the wrap mortgage loan was closed by an attorney or a title company, as required by Finance Code §159.105;

(H) Home Improvement Loans. For home improvement transactions (including repair, renovation, and new construction), the following records:

(i) the mechanic's lien contract;

(ii) documents evidencing the transfer of lien from the contractor to the lender;

(iii) the residential construction contract;

(iv) notice of the right of rescission required by Section 50(a)(5)(C) (the notice of right of rescission required by TILA and Regulation Z fulfills this requirement); and

(v) any other notice or disclosure required by Texas Property Code Chapter 53;

(I) Reverse Mortgages. For reverse mortgage transactions, the following records:

(i) the disclosure required by Section 50(k)(9);

(ii) the certificate of counseling required by Section 50(k)(8);

(iii) the servicing disclosure statement required by Regulation X (12 C.F.R. §1024.33(a));

(iv) the disclosures required by Regulation Z (12 C.F.R. §1026.33(b)); and

(v) any other notice or disclosure required by federal or state law to originate a reverse mortgage.

(d) Required Records (Loan Processing and Underwriting). A mortgage company and its sponsored originators must maintain the following items in connection with the provision of third-party loan processing and underwriting services by the mortgage company to a mortgage company licensed by SML or a mortgage banker registered with SML: Loan Processing and Underwriting Log. A loan processing and underwriting log, maintained on a current basis (meaning all entries must be made within 7 days after the date on which the events they relate to occurred and updated as the information changes) that sets forth, at a minimum (the log may include additional information, provided, the information is readily sortable as required by subsection (b)(1) of this section):

(1) full name of each mortgage applicant (last name, first name);

(2) application/loan identification number assigned by the mortgage company;

(3) application/loan identification number assigned by the mortgage company or mortgage banker to which the mortgage company is providing loan processing or underwriting services, if different than paragraph (2) of this subsection;

(4) loan identification number assigned by the lender, if different than paragraphs (2) or (3) of this subsection;

(5) address of the subject property (street address, city, state, zip code);

(6) full name and NMLS ID of the mortgage company or mortgage banker to which the mortgage company is providing loan processing or underwriting services;

(7) the name, NMLS ID, and employment status (e.g., W-2 or 1099) of each individual loan processor or underwriter performing loan processing or underwriting services on behalf of the mortgage company;

(8) closing date;

(9) description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence));

(10) description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied);

(11) dollar amount invoiced, assessed, charged, collected, and/or paid by the mortgage applicant for the loan processing or underwriting services provided by the mortgage company; and

(12) description of whether the fee for the loan processing or underwriting services was included on the Closing Disclosure as a fee paid directly to the mortgage company at closing (e.g., on CD, or not on CD).

(e) Other Records Required by Federal Law. A mortgage company and its sponsored originators must maintain such other books and records as may be required to evidence compliance with applicable federal laws and regulations, including, but not limited to:

(1) the Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(2) the Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.) and Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information rules (16 C.F.R. §313.1 et seq.);

(3) the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.);

(4) Regulation N (12 C.F.R. §1014.1 et seq.), and

(5) the FTC's Standards for Safeguarding Customer Information rule (16 C.F.R. §314.1 et. Seq.)

(f) General Business Records. A mortgage company and its sponsored originators must capture and maintain the following records generated in the normal course of doing business:

(1) all checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies thereof) relating to residential mortgage loan origination business;

(2) complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of a mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant;

(3) all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all mortgage company employees, independent contractors and all others compensated by the mortgage company in connection with residential mortgage loan origination business;

(4) all written complaints or inquiries (or summaries of any verbal complaints or inquiries) along with any correspondence, notes, responses, and documentation relating thereto and the disposition thereof;

(5) all contractual agreements or understandings with third parties in any way relating to a residential mortgage loan transaction including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, investor contracts, or employment agreements;

(6) all reports of audits, examinations, inspections, reviews, investigations, or similar, performed by any third party, including any regulatory or supervisory authorities;

(7) all advertisements in the medium (e.g., recorded audio, video, Internet or social media site posting, or print) in which they were published or distributed; and

(8) policies and procedures related to the origination of residential mortgage loans by the mortgage company and its sponsored originators, including, but not limited to:

(A) identity theft prevention program (red flags rule; 16 C.F.R. §681.1(d));

(B) anti-money laundering program (31 C.F.R. §1029.210);

(C) information security program (16 C.F.R. §314.3(a));

(D) ability-to-repay underwriting policies, if any, under Regulation Z (12 C.F.R. §1026.43(c));

(E) quality control policy, if any;

(F) compliance manual, if any; and

(G) personnel administration/employee policies, if any;

(g) Records Concerning Administrative Offices. A mortgage company must maintain a list reflecting any office constituting an "administrative office" of the mortgage company for purposes of §56.206 of this title (relating to Office Locations; Remote Work);

(h) Records Concerning Remote Work. A mortgage company must maintain records reflecting its compliance with the requirements for remote work, as provided by §56.206 of this title;

(i) Records Concerning Corrective Action. A mortgage company must maintain records showing compliance with §56.304 of this title (relating to Corrective Action);

(j) Records Concerning Unclaimed Funds. A mortgage company must maintain records showing compliance with §56.305 of this title (relating to Unclaimed Funds); and

(k) Other Records Designated by SML. A mortgage company and its sponsored originators must maintain such other books and records as SML may, from time to time, specify in writing.

§56.205. Mortgage Call Reports.

(a) Purpose. This section clarifies and establishes requirements related to the mortgage call reports a mortgage company is required to file under Finance Code §156.213.

(b) NMLS Filing Requirements. Mortgage call reports must be filed in NMLS by the deadlines established by NMLS. The mortgage call report must be filed using the current form prescribed by NMLS. Information about how to file the mortgage call report and applicable filing deadlines is available on the NMLS Resource Center website (nationwidelicensingsystem.org).

(c) Components. The mortgage call report consists of three components, all of which must be completed:

(1) Residential Mortgage Loan Activity (RMLA);

(2) State-Specific Supplemental Form (SSSF); and

(3) Statement of Financial Condition.

(d) Partial Reporting Periods; Periods of Inactivity. A mortgage call report must be filed for all reporting periods during which the mortgage company is licensed, including partial periods, and periods during which the mortgage company has no reportable activity.

(e) Extensions of Time. The Commissioner, in his or her sole discretion, may grant an extension of time to file the mortgage call report. A request for an extension of time must be made in writing and approved by the Commissioner.

(f) Duty to File Complete and Accurate Reports. The mortgage call report must contain complete and accurate information at the time it is filed. A mortgage call report containing incomplete or inaccurate information is deemed to be a failure to file the report. A mortgage company must act diligently to compile the information necessary to complete the mortgage call report in advance of the deadline to file the mortgage call report. For clarity, the filing of incomplete or inaccurate information, even on a temporary basis with the intent to amend the filing with complete and accurate information, constitutes a violation of Finance Code §156.213, and this section, and may result in disciplinary action as described by subsection (g) of this section.

(g) Failure to File; Disciplinary Action. Failure to file a mortgage call report may result in disciplinary action, including, but not limited to, denial, suspension, or revocation of the license, or the imposition of an administrative penalty.

§56.206. Office Locations; Remote Work.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Administrative office" means any office of a mortgage company that is separate and distinct from its main office or a branch office, whether located in Texas or not, at which the mortgage company conducts residential mortgage loan business in Texas. The term does not include a "remote location" as defined by this section. The term includes:

(A) an office or location at which the employees of the mortgage company act solely in the capacity of a "loan processor or underwriter," as that term is defined by Finance Code §180.002;

(B) an office or location at which the employees of the mortgage company perform solely administrative or clerical tasks on behalf of an individual licensed as an originator, as provided by Finance Code §180.002(19)(B)(i); or

(C) an office or location which conducts any combination of activities described by subparagraphs (A) or (B) of this paragraph.

(2) "Branch office" means any office a mortgage company maintains that is separate and distinct from its main office, whether located in Texas or not, at which it conducts residential mortgage loan origination business with mortgage applicants or prospective mortgage applicants in Texas or concerning residential real estate located in Texas. The term does not include:

(A) an office or location at which the employees of the mortgage company act solely in the capacity of a "loan processor or underwriter," as that term is defined by Finance Code §180.002;

(B) an office or location at which the employees of the mortgage company perform solely administrative or clerical tasks on behalf of an individual licensed as an originator, as provided by Finance Code §180.002(19)(B)(i);

(C) an office or location which conducts any combination of the activities described by subparagraphs (A) and (B) of this paragraph; or

(D) a "remote location" as defined by this section.

(3) "Licensed office" means a physical office of the mortgage company that is licensed by SML as its main office or a branch office.

(4) "Main office" means the office the mortgage company has listed in its NMLS license records (MU1 filing) as its "main address" (principal address) under "identifying information," and is therefore licensed by SML through the mortgage company's license.

(5) "Remote location" means a location other than a licensed office or an administrative office of the mortgage company from which the employees or sponsored originators of the mortgage company conduct residential mortgage loan business as provided by subsection (c) of this section.

(b) Office Requirements. A mortgage company must obtain a license for any office constituting the main office or a branch office of the mortgage company. A mortgage company must also obtain a license for any office or location it advertises or promotes to the general public as an office or location at which the mortgage company's spon-

sored originators meet in-person with mortgage applicants or prospective mortgage applicants. A licensed office must be a physical office and have a permanent physical or street address (a post office box or other similar arrangement is not sufficient). The main office or a branch office must be established by the mortgage company. A sponsored originator cannot establish his or her own office other than an office or location from which he or she performs remote work as provided by subsection (c) of this section. A branch office must be licensed by SML prior to conducting operations. A mortgage company must amend its MU3 filing to surrender the branch office license within 10 days after the date the branch office closes.

(c) Authorization for Remote Work. The employees of a mortgage company and its sponsored originators may conduct business and work from a remote location to the same extent as if such employees or originators were physically present at a licensed office of the mortgage company; provided, the mortgage company:

(1) maintains appropriate safeguards for the mortgage company and its consumer data, information, and records, including the use of secure virtual private networks and data storage encryption (including cloud storage) where appropriate;

(2) employs appropriate risk-based monitoring and oversight processes for work performed from a remote location and maintains records of those processes;

(3) ensures that physical records containing consumer information are not maintained at a remote location (as defined by this section) and any electronic records containing consumer information located at or accessible from the remote location are secured;

(4) ensures that consumer information and records of the mortgage company, including written procedures and training for work from remote locations authorized under this section, are accessible and available to SML on request;

(5) provides appropriate training to its employees and sponsored originators to ensure that remote employees or sponsored originators work in an environment conducive and appropriate to consumer privacy; and

(6) adopts, maintains, and follows written procedures to ensure that:

(A) the mortgage company and its employees and sponsored originators comply with this section; and

(B) the employees and sponsored originators do not perform an activity from a remote location that would be prohibited at a licensed office or administrative office of the mortgage company.

§56.210. Reportable Incidents.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Catastrophic event" means an event, other than a security event, that is unforeseen and results in extraordinary levels of damage or disruption to operations (e.g., the destruction of a principal office or data center).

(2) "Reportable incident" means an incident or situation that presents a material risk, financial or otherwise, to a mortgage company's operations or its customers. A reportable incident includes the following items, provided, it presents a material risk:

(A) a "catastrophic event" as defined by this subsection; or

(B) a "security event" as defined by this subsection.

(3) "Root cause analysis report" means a written report concerning the results or findings of an audit or investigation to determine the origin or root cause of a security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event.

(4) "Security event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form. It includes information that is encrypted, if the person with unauthorized access to the information can decrypt the data.

(b) Incident Report. Except as provided by subsection (c) of this section, a mortgage company must submit a written report to SML concerning any reportable incident within 30 days after the date the mortgage company becomes aware of the reportable incident. The report must include:

(1) a detailed description of the nature and circumstances of the reportable incident;

(2) the number of Texas residents affected or potentially affected by the reportable incident;

(3) the measures taken by the mortgage company to resolve or address the reportable incident;

(4) the measures the mortgage company plans to take to resolve or address the reportable incident; and

(5) the point of contact designated by the mortgage company for inquires by SML about the reportable incident.

(c) Incidents Reported to Other Agencies. A mortgage company must provide SML with a copy of the following notifications sent to other agencies at the time it makes the notification. Except as provided by subsection (d) of this section, a notification provided to SML under this subsection satisfies the requirement to file a report under subsection (b) of this section:

(1) the notification to the Federal Trade Commission (FTC) required by Section 314.4(j) of the FTC's Standards for Safeguarding Customer Information rules (16 C.F.R. §314.4(j)); and

(2) the notification to the Office of the Attorney General of Texas required by Business and Commerce Code §521.053(i).

(d) Root Cause Analysis for Security Events. For any security event triggering a notification described by subsection (c) of this section, the mortgage company must provide SML with a root cause analysis report within 120 days after the date the mortgage company becomes aware that the security event occurred.

(e) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation related to a reportable incident as SML deems necessary or appropriate.

(f) Confidentiality. Information reported under this section is deemed to be confidential information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §156.301 and §56.302 of this title (relating to Confidentiality of Examination, Investigation, and Inspection Information).

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 26, 2024.

TRD-202403932

Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. SUPERVISION AND ENFORCEMENT

7 TAC §§56.300 - 56.304, 56.310, 56.311

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act). §§56.300 - 56.304 are also proposed under the authority of, and to implement, Finance Code: §156.301 and §156.305. §56.310 is also proposed under the authority of, and to implement, Finance Code: §§156.209, 156.302, 156.303, and 156.406. §56.311 is also proposed under the authority of, and to implement, Finance Code §156.209.

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§56.300. Examinations.

(a) Purpose. This section clarifies and establishes requirements related to examinations of a mortgage company and its sponsored originators conducted by SML under Finance Code §156.301.

(b) State Examination System (SES). Examinations are conducted in SES (stateexaminationsystem.org). A mortgage company must use SES to facilitate the examination.

(c) Examinations by Other State Agencies. SML may participate in, leverage, or accept an examination conducted by another state agency or regulatory authority if that state agency's or regulatory authority's mortgage regulation program is accredited by the Conference of State Bank Supervisors.

(d) Notice of Examination. Except when SML determines that giving advance notice would impair the examination, SML will give the primary contact person of the mortgage company listed in NMLS or a person designated by the primary contact person advance notice of each examination. Such notice will be sent to the primary contact person's or designated person's mailing address or email address of record with NMLS and will specify the date on which SML's examiners are scheduled to begin the examination. Failure to receive the notice will not be grounds for delay or postponement of the examination. The notice will include a list of the documents and records that must be produced or made available to facilitate the examination.

(e) Examination Scope. Examinations will be conducted to determine compliance with Finance Code Chapters 156, 157, and 180, and this chapter, and will specifically address whether:

(1) all persons are properly licensed and sponsored;

(2) all office locations are properly licensed, as provided by §56.206 of this title (relating to Office Locations; Remote Work);

(3) all required books and records are being maintained in accordance with §56.204 of this title (relating to Books and Records);

(4) legal and regulatory requirements applicable to the mortgage company and its sponsored originators are being properly followed (including, but not limited to, the requirements described in §56.202(b)(2) of this title (relating to Fraudulent, Misleading, or Deceptive Practices and Improper Dealings)); and

(5) other matters as SML and its examiners deem necessary or advisable to carry out the purposes of Finance Code Chapters 156, 157, and 180.

(f) Loan Sample. The examiners will review a sample of residential mortgage loan files identified by the examiners from the mortgage company's mortgage transaction log required by §56.204(c)(1) of this title or the loan processing or underwriting log required by §56.204(d) of this title. The examiner may expand the number of files to be reviewed if, in his or her discretion, conditions warrant.

(g) Failure to Cooperate; Disciplinary Action. Failure by a mortgage company or sponsored originator to cooperate with the examination or failure to grant the examiners access to books, records, documents, operations, and facilities may result in disciplinary action including, but not limited to, imposition of an administrative penalty.

(h) Reimbursement for Costs. The examiners may require a mortgage company, at its own cost, to make copies of loan files or such other books and records as the examiners deem appropriate. When SML must travel outside of Texas to conduct an examination of a mortgage company or its sponsored originators because the required records are maintained at a location outside of Texas, SML will require reimbursement for the actual costs incurred in connection with such travel including, but not limited to, transportation, lodging, meals, communications, courier service and any other reasonably related costs. Costs assessed under this subsection will be invoiced in NMLS and must be paid in NMLS.

§56.301. Investigations.

(a) Purpose. This section clarifies and establishes requirements related to investigations of a mortgage company and its sponsored originators conducted by SML under Finance Code §156.301.

(b) Reasonable Cause. SML will conduct an investigation if it has reasonable cause to do so. Reasonable cause is deemed to exist if SML receives or discovers information from a source SML has no reason to believe is other than credible indicating that a violation of law more likely than not occurred that is within SML's authority to take action to address. The absence of reasonable cause to initiate an investigation does not constitute grounds to challenge and does not invalidate action taken by SML to address a violation found during the course of an investigation.

(c) Investigation Methods. Investigations will be conducted as SML deems appropriate based on the relevant facts and circumstances then known. An investigation may include:

(1) review of documentary evidence;

(2) interviews with complainants, respondents, and third parties, and the taking of sworn written statements;

(3) obtaining information from other state or federal agencies, regulatory authorities, or self-regulatory organizations;

(4) requiring complainants or respondents to provide explanatory, clarifying, or supplemental information; and

(5) other lawful investigative methods SML deems necessary or appropriate.

§56.302. Confidentiality of Examination, Investigation, and Inspection Information.

(a) Purpose. This section clarifies and establishes requirements related to the confidentiality of information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §156.301.

(b) Confidential Information. All information obtained by SML during an examination, investigation, or inspection is confidential and cannot be released except as required or expressly permitted by law. The Finance Commission of Texas and the Commissioner have determined that the following information is confidential under Finance Code §156.301 (list is not exhaustive):

(1) any documents, data, data compilations, work papers, notes, memoranda, summaries, recordings, or other information, in whatever form or medium, obtained, compiled, or created during an examination, investigation, or inspection;

(2) information that is derived from or is the product of the confidential information described by paragraph (1) of this subsection, including any reports or other information chronicling or summarizing the results, conclusions, or other findings of an examination, investigation, or inspection, including assertions of any violations, deficiencies, or issues identified, or any directives, mandates, or recommendations for action by the regulated entity to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection; including, but not limited to, any corrective or remedial action directed by SML or taken by the regulated entity under §56.303 of this title (relating to Corrective Action); and

(3) information that is derived from or is the product of the confidential information described by paragraphs (1) and (2) of this subsection, including any communications, documentary evidence, or other information concerning the regulated entity' s compliance with any directives, mandates, or recommendations for action by the mortgage company and any corrective or remedial action taken by the regulated entity to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection.

(c) Loss of Confidentiality. Subsection (b) of this section notwithstanding, information described by that subsection is not confidential to the extent the information becomes publicly available in a disciplinary or enforcement action that is a contested case (i.e., information made part of the administrative record during an adjudicative hearing that is open to the public).

§56.303. Corrective Action.

(a) Corrective Action, Generally; Purpose. During an examination, investigation, or inspection, SML may determine that violations, deficiencies, or compliance issues (collectively, violations) occurred. Within the confidential environment of the examination, investigation, or inspection, SML may direct the mortgage company to voluntarily take corrective action to address the violations identified during the examination, investigation, or inspection. This section clarifies and establishes requirements related to such corrective action.

(b) Internal Reviews. If SML determines during an examination, investigation, or inspection that a violation may be systemic, SML may direct the mortgage company to conduct its own internal review to self-identify any other violations, compile information concerning such violations, and report its findings to SML. SML may direct the mortgage company to take corrective action for any violations identified during the review.

(c) Policies and Procedures and Internal Controls. SML may direct the mortgage company to develop and adopt policies and procedures and institutional controls designed to prevent or mitigate future violations.

(d) Refunds to Consumers. SML may direct the mortgage company to make refunds to consumers affected by the violation. Any refund must comply with this subsection. The Commissioner, in his or her sole discretion, may waive or modify the requirements of this subsection to achieve appropriate, practical, and workable results. A refund must be made by one of the following methods:

(1) Certified Funds. The refund may be made by certified funds (cashier's check or money order) sent to the mortgage applicant at his or her last known address. The mortgage company must use reasonable diligence to determine the last known address of the mortgage applicant. The payment must be sent in a manner that includes tracking information and confirmation of delivery (e.g., certified mail return receipt requested, or commercial delivery service with tracking). The mortgage company must capture and maintain records evidencing the payment, including a copy of the payment instrument, any correspondence accompanying the payment, tracking information, and delivery confirmation;

(2) Corporate Check. The refund may be made by issuing a check to the mortgage applicant. The check must be drawn on a bank account owned by the mortgage company. The check must be sent to the mortgage applicant at his or her last known address. The mortgage company must use reasonable diligence to determine the last known address of the mortgage applicant. The mortgage company must capture and maintain records evidencing the payment, including a copy of the check, any correspondence accompanying the check, and evidence that the check was successfully negotiated (i.e., cancelled check). If the mortgage applicant fails to cash the check, the mortgage company must comply with requirements of §56.304 of this title (relating to Unclaimed Funds);

(3) Wire Transfer or ACH. The refund may be made by wire transfer or automated clearing house (ACH) payment to the mortgage applicant's verified bank account. The mortgage company must capture and maintain records evidencing the payment, including any transaction receipt, confirmation page, or similar, reflecting:

(A) name of the sender and any relevant contact information;

(B) sender's bank information (institution, routing number, and account number);

(C) name of the recipient and any relevant contact information;

(D) recipient's bank information (routing number and account number); and

(E) the transaction reference number or confirmation code; or

(4) Credit Against Indebtedness. If the mortgage company is the lender or holds the mortgage servicing rights to the residential mortgage loan related to the refund, the mortgage company may issue a credit against the indebtedness equal to the refund; however, if the refund is related to an improper charge or proceeds improperly held by the mortgage company on which interest was charged, the credit must be applied to the unpaid principal balance as of the date of such improper charge or the date the mortgage company began improperly holding the proceeds (typically inception of the residential mortgage loan). The mortgage company must capture and maintain records evidencing application of the credit, including the payment history reflecting application of the credit and any subsequent adjustments to principal and interest as a result of the credit being applied.

§56.304. Unclaimed Funds.

(a) Escheat Suspense Account; Escheat Log. Funds owed to or held for the benefit of a mortgage applicant or other customer of the mortgage company for more than one year (i.e., unclaimed funds) must be transferred to an escheat suspense account. The mortgage company must maintain a log of all transfers made to the escheat suspense account, including, at a minimum:

(1) date of transfer to the escheat suspense account;

(2) date the obligation to pay the funds arose;

(3) full name and last known contact information of the mortgage applicant or other customer to whom funds are owed; and

(4) amount of unclaimed funds.

(b) Required Records. The mortgage company must maintain records reflecting bona fide attempts to pay the funds to the mortgage applicant or customer.

(c) Escheat to State. At the end of three years, the unclaimed funds must be paid to the Texas Comptroller of Public Accounts as provided by Property Code §72.101, or as provided by such other state law governing the unclaimed funds.

(d) Records Retention. Records required by this section must be retained for 10 years beginning on the date the obligation to pay the unclaimed funds arose.

§56.310. Appeals.

(a) Purpose. Finance Code Chapter 156 provides that certain decisions of the Commissioner adverse to a mortgage company or other person may be appealed and offers the opportunity for an adjudicative hearing to challenge the decision. This section establishes various deadlines by which a mortgage company or other person must appeal the decision before it becomes final and non-appealable.

(b) The following appeal deadlines apply:

(1) License Denials. A license denial under Finance Code §156.209 must be appealed within 10 days after the date notice of the Commissioner's decision is received by the person seeking the license.

(2) Notice of Administrative Penalty for Violation of Final Cease and Desist Order. A notice of administrative penalty issued under Finance Code §156.303(e) must be appealed within 10 days after the date the notice is issued.

(3) Order of Suspension for Violation of Final Order. An order of suspension issued by the Commissioner under Finance Code §156.303(g) must be appealed within 15 days after the date the order is issued.

(4) Order of Suspension for Criminal Offense Involving Fraud, Theft, or Dishonesty. An order of suspension issued by the Commissioner under Finance Code §156.303(j) must be appealed within 15 days after the date the order is issued.

(5) Notice of Disciplinary Action. A notice of disciplinary action issued under Finance Code §§ 156.302(a), 156.303(a), or 156.303(a-1) must be appealed within 30 days after the date the notice is issued.

(6) Order for Disciplinary Action (Order to Take Affirmative Action or Order to Cease and Desist). An order of the Commissioner issued under Finance Code §156.303(b) or §156.406(c) must be appealed within 30 days after the date the order is issued. This deadline does not apply to an order for disciplinary action issued by the Commissioner under Finance Code §§ 156.302(a), 156.303(a), or 156.303(a-1) that was preceded by notice issued under paragraph (5) of this subsection.

(7) Other Deadlines. Any appeal not otherwise addressed by this section must be made within 30 days after the date notice or order is issued.

(c) Requests for Appeal. An appeal must be made in writing and received by SML on or before the appeal deadline. An appeal may be sent by mail (Attn: Legal Division, 2601 N. Lamar Blvd., Suite 201, Austin, Texas 78705) or by email (enforcement@sml.texas.gov).

(d) Effect of Not Appealing. A mortgage company or other person that does not timely appeal the Commissioner 's decision is deemed to have irrevocably waived any right it had to challenge the decision or request an adjudicative hearing on the decision and is deemed not to have exhausted all administrative remedies available to it for purposes of judicial review of the Commissioner 's decision under Government Code §2001.171. The failure to appeal an order of the Commissioner results in the order becoming final and non-appealable. The failure to appeal a notice of the Commissioner's decision means the Commissioner can issue a final, non-appealable order at any time without further notice or opportunity for a hearing to the mortgage company or other person.

§56.311. Hearings.

(a) Adjudicative hearings conducted under Finance Code Chapter 156 are governed by the rules in Chapter 9 of this title (concerning Rules of Procedure for Contested Hearings, Appeals, and Rulemakings). Contested cases referred to the State Office of Administrative Hearings (SOAH) are also governed by SOAH's rules in 1 TAC Chapter 155 (concerning Rules of Procedure). All hearings are held in Austin, Texas. Any appeal for judicial review under Government Code §2001.171 must be brought in a district court in Travis County, Texas.

(b) Hearing Costs for License Denials. Hearing costs assessed against a person under Finance Code §156.209(f) include:

(1) filing fees;

(2) the costs of a court reporter;

(3) the costs of the administrative law judge (ALJ) or hearings officer presiding over the hearing and any ancillary proceedings;

(4) the expense of SML's staff to prepare for and attend the hearing or any ancillary proceedings, and any related travel expenses;

(5) the cost of any outside counsel retained to represent SML; and

(6) the cost of any expert witness retained by SML.

(c) Determination of Hearing Costs for License Denials. Unless the ALJ makes more specific findings of fact or conclusions of law concerning the hearing costs described by subsection (b)(3) of this section, such costs are deemed to be $500. Hearing costs described by subsection (b)(4) of this section are measured based on the diversion of productivity of such staff away from their normal duties and toward the hearings process and are calculated by multiplying the number of hours spent by each staff member in furtherance of the hearings process (measured in increments of 1/10 of an hour) by their current hourly compensation rate. The Commissioner may rely on affidavit testimony of such staff members to make appropriate findings of fact and conclusions of law concerning the hearing costs described by subsection (b)(4) 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 26, 2024.

TRD-202403933
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 57. MORTGAGE BANKERS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes new rules in 7 TAC Chapter 57: §§57.1 - 57.6, 57.100 - 57.104, 57.106, 57.107, 57.200 - 57.207, 57.210, 57.300 - 57.304, 57.310, and 57.311 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators, affect mortgage bankers registered with SML and individual residential mortgage loan originators licensed by SML under Finance Code Chapter 157.

Changes Concerning the Reorganization (Relocation) of Mortgage Banker Rules from Chapter 81 to Chapter 57

SML has determined it should reorganize its rules concerning mortgage bankers by relocating the rules to Chapter 57, a vacant chapter, and devoting such chapter exclusively to rules affecting mortgage bankers. The proposed rules, if adopted, would effectuate these changes.

Changes Concerning General Provisions (Subchapter A)

The proposed rules: in §57.2, Definitions, adopt new definitions for "control person," "E-Sign Act," "making a residential mortgage loan," "person," "SML," "State Examination System," "trigger lead," "UETA," "wrap lender," and "wrap mortgage loan," while eliminating definitions for "Commissioner's designee," and "Department"; in §57.3, Formatting Requirements for Notices, adopt formatting requirements for the various disclosures a mortgage banker is required to make; in §57.4, Electronic Delivery and Signature of Notices, clarify that any notice or disclosure made by a mortgage banker may be delivered and signed electronically; and, in §57.5, Computation of Time, clarify how time periods measured in calendar days are computed.

Changes Concerning Registration (Subchapter B)

The proposed rules: in §57.100, Registration Requirements, clarify when a mortgage banker registration is required; in §57.101, Applications for Registration, establish requirements for making an application for a mortgage banker registration; in §57.102, Fees, clarify that the registration fee charged by SML is exclusive of fees charged by the Nationwide Multistate Licensing System (NMLS); in §57.103, Renewal of the Registration, clarify the requirements to renew the registration, clarify that a registration approved with a pending deficiency requires the mortgage banker to resolve the deficiency within 30 days after the date the registration is approved, and clarify that, if a registration is not renewed within the reinstatement period provided by Finance Code §157.0062, a person must apply for a new registration; in §57.104, NMLS Records; Notices Sent to the Mortgage Banker, establish requirements for the mortgage banker to update its registration records in NMLS and establish requirements concerning how SML will contact the mortgage banker using such records; in §57.106, Surrender of the Registration, clarify circumstances under which SML may not grant a request made by a mortgage banker to surrender its registration; and, in §57.107, Sponsorship of the Originator; Responsibility for Originator's Actions, establish requirements for which a mortgage banker is responsible for the actions of the individual residential mortgage loan originators it allows to act on its behalf and provide that a mortgage banker registration will revert to inactive status if the mortgage banker fails to maintain a sponsored individual residential mortgage loan originator.

Changes Concerning Books and Records (§57.204)

Pursuant to Finance Code §157.0022, SML "may request documentary and other evidence [from a mortgage banker] considered by [SML] as necessary to effectively evaluate [a consumer] complaint, including correspondence, loan documents, and disclosures . . . [and a] mortgage banker shall promptly provide any evidence requested by the commissioner." Meanwhile, with respect to originators sponsored by a mortgage banker, pursuant to Finance Code §157.021(a), the SML commissioner (commissioner) may conduct inspections (including examinations) of an originator to determine compliance with Chapter 157 and the Texas SAFE Act, or the rules of [SML] adopted thereunder. Inspections include inspection of the originator's "books, records, documents, operations, and facilities" (Finance Code §157.021(a)). Pursuant to Finance Code §157.021(b), the commissioner, upon receipt of a signed written complaint against an originator, "shall investigate the actions and records" of the originator. Pursuant to Finance Code §157.021(e), the commission "by rule shall . . . determine the information and records [of the originator] to which the commissioner may demand access during an inspection or an investigation." Pursuant to Finance Code §157.02015(b), the commission "may adopt rules regarding books and records that [an originator] is required to keep, including the location at which the books and records must be kept." The proposed rules, in §57.204, Books and Records: clarify that a mortgage banker must maintain books and records on behalf of the individual residential mortgage loan originators it sponsors; establish additional data points for the mortgage transaction log a mortgage banker is required to maintain under existing rules; establish a requirement for a mortgage banker to maintain books and records concerning home equity line of credit transactions it originates; establish a requirement for a mortgage banker to maintain certain additional records relating to home equity loans; establish a requirement for a mortgage banker to maintain a loan processing and underwriting log to track loan processing and underwriting services the mortgage banker provides; establish recordkeeping requirements for corrective action taken by the mortgage banker under proposed §57.304; and establish recordkeeping requirements for the handling of unclaimed funds of the consumer under proposed §57.305. Most of the records and information a mortgage banker is required to maintain under proposed §57.204 are required by other state and federal law or otherwise generated in the ordinary course of doing business. The proposed rules merely require that the mortgage banker capture and maintain the records or information, including transposing certain information to the transaction logs required by the rule. Applicable state and federal law a mortgage banker is required to comply with and that triggers the maintenance of the records and information includes, but not limited to: Article XVI, Section 50, Texas Constitution; Finance Code Chapter 157; Finance Code Chapter 159; Finance Code Chapter 343; the federal Consumer Credit Protection Act, Truth in Lending Act (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R.

§1026.1 et seq.); the federal Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.); the federal Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.) and Regulation B (12 C.F.R. §1002.1 et seq.); the federal Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.), Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information Rules (16 C.F.R. §313.1 et seq.); the FTC's Standards for Safeguarding Customer Information Rule (16 C.F.R. §314.1 et seq.); the federal Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.); and Regulation N (Mortgage Acts and Practices-Advertising (MAP Rule)); 12 C.F.R. §1014.1 et seq.).

Changes Concerning Reportable Incidents (§57.210)

The mortgage industry in recent years, like many other industries, has experienced increasing operational risks to cybersecurity posed by threat actors, including third-party service providers subject to such risks. SML has found that, in many instances, regulated persons do not self-report incidents that pose a threat to operations, and SML only learns of the incident through consumer complaints filed with SML, or through media reports, leaving SML in a poor position to mount a regulatory response. The proposed rules in §57.210, Reportable Incidents, establish requirements for a mortgage banker to report certain information to SML when the mortgage banker experiences a "security event" or a "catastrophic event." A "security event" is defined by the rule to mean "an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form." A "catastrophic event" is defined by the rule to mean "an event, other than a security event, that is unforeseen and results in extraordinary levels of damage or disruption to operations." For an event to be reportable under the rule, it must present "a material risk, financial or otherwise, to a mortgage banker's operations or its customers." SML asserts such information is necessary to facilitate SML's inspection/examination authority described in the Changes Concerning Books and Records (§57.204) section above. Under federal law, pursuant to the Federal Trade Commission's (FTC) Standards for Safeguarding Customer Information rules (16 C.F.R. §314.1, et seq.), a mortgage banker must "develop, implement, and maintain a comprehensive information security program" to safeguard customer information (16 C.F.R. §314.3(a)), and must, among other things: conduct periodic risk assessments of the information system; design and implement safeguards to control risks to the integrity of the information system (including data encryption and controlling access); regularly test or monitor the effectiveness of the safeguards; implement policies and procedures and internal controls to ensure personnel can execute the information security program; oversee service providers to ensure compliance with the information security program; continuously evaluate and adjust the information security program; establish a written incident response plan designed to promptly respond to, and recover from, any security event materially affecting the confidentiality, integrity, or availability of customer information; and, in the event of a breach involving the information of 500 or more consumers, report certain information to the FTC concerning the nature and extent of the breach. Meanwhile, pursuant to Business and Commerce Code §521.052, a mortgage banker "shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business." Pursuant to Business and Commerce Code §521.053(i), for a breach involving the information of 250 or more Texas consumers, a mortgage banker must report certain information to the attorney general. Considering the foregoing, the existing requirements of state and federal law already require a mortgage banker to maintain the information required to be reported to SML under proposed §57.210 in the event of a security event. Moreover, a report made to the FTC or to the attorney general described above generally satisfies the requirements of the rule, other than the requirement to provide a "root cause analysis" concerning the "results or findings of an audit or investigation to determine the origin or root cause of security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event"; however, SML asserts that a root cause analysis is subsumed under the existing requirements of state and federal law related to security events, as described above, in order to meaningfully comply with such requirements.

Other Changes Concerning Duties and Responsibilities (Subchapter C)

The proposed rules: in §57.200, Required Disclosures, remove the requirement that the disclosure to consumers required by Finance Code §157.0021(a) be signed by the individual residential mortgage loan originator and the mortgage applicant, remove the requirement that a mortgage banker make the disclosure on social media sites, and establish the requirement for a mortgage banker to disclose its website address on all correspondence sent to the mortgage applicant; in §57.201, Conditional Pre-Qualification and Conditional Approval Letters, establish the requirement for a conditional pre-qualification letter or conditional approval letter be issued by an individual residential mortgage loan originator acting on behalf of the mortgage banker; in §57.202, Fraudulent, Misleading, or Deceptive Practices and Improper Dealings, clarify that a mortgage banker commits a violation if the mortgage banker knowingly misrepresents the lien position of a residential mortgage loan, create requirements concerning the use of trigger leads, clarify that a mortgage banker commits a violation if the mortgage banker solicits a consumer on the federal do-not-call registry, clarify that a mortgage banker commits a violation if the mortgage banker issues a conditional pre-qualification letter or conditional approval letter that is inaccurate, erroneous, or negligently-issued, and clarify that a mortgage banker commits a violation if the mortgage banker engages in business when its registration is inactive; in §57.203, Advertising, establish the requirement for a mortgage banker to state its website address when making an advertisement, and establish requirements for the use of team names by a mortgage banker; in §57.205, Mortgage Call Reports, clarify the required components of the mortgage call report, and clarify that mortgage call reports must be complete and accurate when filed; and in §57.207, Periodic Statements, establish a requirement that the mortgage banker comply with the requirements of federal law under Regulation Z (12 C.F.R. §1026.41), governing periodic statements sent to the borrower.

Changes Concerning Supervision and Enforcement (Subchapter D)

The proposed rules: in §57.300, Examinations, provide that examinations are conducted using the State Examination System, and that SML may participate in, leverage, or accept an ex-

amination conducted by another state agency or regulatory authority; in §57.302, Confidentiality of Examination, Investigation, and Inspection Information, clarify the confidentiality of information arising from an examination, investigation, or inspection by SML; in §57.303, Corrective Action, clarify when SML may direct a mortgage banker to take corrective action, and creating requirements for refunds made to consumers; in §57.304, Unclaimed Funds, establish requirements concerning the mortgage banker's handling of unclaimed funds of the consumer, including requiring the maintenance of a log to track the handling of such funds; and, in §57.310, Appeals, establish various deadlines by which a mortgage banker or other person subject to an enforcement action must appeal.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to 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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing mortgage bankers to be easier to find by members of the public; and, to better protect members of the public who are consumers seeking a residential mortgage loan from a mortgage banker registered with SML.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs). However, SML includes in this proposal a note concerning certain potential costs other than direct costs (indirect costs). SML incorporates by reference the Changes Concerning Books and Records (§57.204) section above as if fully set forth herein. The proposed rules related to Changes Concerning Books and Records (§57.204) establish requirements concerning the books and records a mortgage banker must maintain. The maintenance of such records may have some attendant costs; however, as stated above, the required records and information are already generated by the mortgage banker in complying with other state and federal law or in the ordinary course of doing business. As a result, these indirect costs are insignificant. SML incorporates by reference the Changes Concerning Reportable Incidents (§57.210) section above as if fully set forth herein. The proposed rules related to Changes Concerning Reportable Incidents (§57.210) establish requirements for a mortgage banker to report certain information when it experiences a security event or a catastrophic event that materially affects its operations, and may have some attendant costs; however, as stated above, the information required to be reported is already generated by the mortgage banker in complying with other state and federal law or in the ordinary course of doing business. As a result, these indirect costs are insignificant.

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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning General Provisions (Subchapter A), Changes Concerning Registration (Subchapter B), Changes Concerning Books and Records (§57.204), Changes Concerning Reportable Incidents (§57.210), and Other Changes Concerning Duties and Responsibilities (Subchapter C) establish various rule requirements, as discussed in such sections; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Other Changes Concerning Duties and Responsibilities (Subchapter C) have the effect of repealing existing rule requirements as discussed in such section. (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§57.1 - 57.6

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act).

This proposal affects the statutes in Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act.

§57.1. Purpose and Applicability.

This chapter governs SML's administration and enforcement of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, concerning the registration and operations of mortgage bankers. This chapter applies to persons registered with SML as a mortgage banker or those required to be registered.

§57.2. Definitions.

For purposes of this chapter, and in SML's administration and enforcement of Finance Code Chapter 157 (other than Subchapter D), the following definitions apply, unless the context clearly indicates otherwise:

(1) "Application," as used in Finance Code §157.002(6) and paragraphs (8) and (20) of this section means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, or the mortgage loan amount.

(2) "Commissioner" means the savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(3) "Compensation" includes salaries, bonuses, commissions, and any financial or similar incentive.

(4) "Control person" means an individual that directly or indirectly exercises control over a mortgage banker. Control is defined by the power, directly or indirectly, to direct the management or policies of a mortgage banker, whether through ownership of securities, by contract, or otherwise. Control person includes any person that:

(A) is a director, general partner, or executive officer;

(B) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities;

(C) in the case of a limited liability company, is a manager or managing member; or

(D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the partnership's capital assets.

(5) "Dwelling" means a residential structure that contains one to four units and is attached to residential real estate. The term includes an individual condominium unit, cooperative unit, or manufactured home, if it is used as a residence.

(6) "E-Sign Act" refers to the federal Electronic Signature in Global and National Commerce Act (15 U.S.C. §7001 et seq.).

(7) "Making a residential mortgage loan," or any similar derivative or variation of that term, means when a person determines the credit decision to provide the residential mortgage loan, or the act of funding the residential mortgage loan or transferring money to the borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the residential mortgage loan.

(8) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts a mortgage banker or originator in response to a solicitation) to obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application, as provided by paragraph (1) of this section.

(9) "Mortgage banker" has the meaning assigned by Finance Code §157.002.

(10) "Mortgage company" means, for the purposes of this chapter, a "residential mortgage loan company" as defined by Finance Code §157.002.

(11) "Nationwide Multistate Licensing System" or "NMLS" has the meaning assigned by Finance Code §157.002 in defining "Nationwide Mortgage Licensing System and Registry."

(12) "Offers or negotiates the terms of a residential mortgage loan," as used in Finance Code §157.002(6) means, among other things, when an individual:

(A) arranges or assists a mortgage applicant or prospective mortgage applicant in obtaining or applying to obtain, or otherwise secures an extension of consumer credit for another person, in connection with obtaining or applying to obtain a residential mortgage loan;

(B) presents for consideration by a mortgage applicant or prospective mortgage applicant particular residential mortgage loan terms (including rates, fees and other costs); or

(C) communicates directly or indirectly with a mortgage applicant or prospective mortgage applicant for the purpose of reaching a mutual understanding about particular residential mortgage loan terms.

(13) "Originator" has the meaning assigned by Finance Code §157.002 in defining "residential mortgage loan originator." Paragraphs (12) and (20) of this section do not affect the applicability of such statutory definition. Individuals who are specifically excluded under such statutory definition, as provided by Finance Code §180.002(19)(B), are excluded under this definition and for purposes of this chapter. Persons who are exempt from licensure as provided by Finance Code §180.003 are exempt for purposes of this chapter, except as otherwise provided by Finance Code §180.051.

(14) "Person" has the meaning assigned by Finance Code §180.002.

(15) "Residential mortgage loan" has the meaning assigned by Finance Code §157.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan secured by a structure that is suitable for occupancy as a dwelling but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as a residence.

(16) "Residential real estate" has the meaning assigned by Finance Code §180.002 and includes both improved or unimproved real estate or any portion of or interest in such real estate on which a dwelling is or will be constructed or situated.

(17) "Social media site" means any digital platform accessible by a mortgage applicant or prospective mortgage applicant where the mortgage banker or sponsored originator does not typically own the hosting platform but otherwise exerts editorial control or influence over the content within their account, profile, or other space on the digital platform, from which the mortgage banker or sponsored originator posts commercial messages or other content designed to solicit business.

(18) "SML" means the Department of Savings and Mortgage Lending.

(19) "State Examination System" or "SES" means an online, digital examination system developed by the Conference of State Bank Supervisors that securely connects regulators and regulated entities on a nationwide basis to facilitate the examination process.

(20) "Takes a residential mortgage loan application," as used in Finance Code §157.002(6) in defining "residential mortgage loan originator" means when an individual receives a residential mortgage loan application for the purpose of facilitating a decision on whether to extend an offer of residential mortgage loan terms to a mortgage applicant or prospective mortgage applicant, whether the application is received directly or indirectly from the mortgage applicant or prospective mortgage applicant, and regardless of whether or not a particular lender has been identified or selected.

(21) "Trigger Lead" means information concerning a consumer's credit worthiness (consumer report) compiled by a credit reporting agency (consumer reporting agency), obtained in accordance with the federal Fair Credit Reporting Act (15 U.S.C. §1681b(c)(1)(B)), that is not initiated by the consumer but, instead, instead triggered by an inquiry to a consumer reporting agency in response to an application for credit initiated by the consumer in a separate transaction. The term does not include a consumer report obtained by a mortgage company licensed by SML or a mortgage banker registered with SML in response to an application for credit made by a consumer with that mortgage company or mortgage banker or that is otherwise authorized by the consumer.

(22) "UETA" refers to the Texas Uniform Electronic Transactions Act, Business & Commerce Code Chapter 322.

(23) "Wrap lender" has the meaning assigned by Finance Code §159.001.

(24) "Wrap mortgage loan" has the meaning assigned by Finance Code §159.001.

§57.3. Formatting Requirements for Notices.

Any notice or disclosure (notice) required by Finance Code Chapter 157, or this chapter, must be easily readable. A notice is deemed to be easily readable if it is in at least 12-point font and uses a typeface specified by this section. A font point generally equates to 1/72 of an inch. If Finance Code Chapter 157 or this chapter prescribes a form for the notice, the notice must closely follow the font types used in the form. For example, where the form uses bolded, underlined, or "all caps" font type, the notice must be made using those font types. The following typefaces are deemed to be easily readable for purposes of this section (list is not exhaustive and other typefaces may be used; provided, the typeface is easily readable):

(1) Arial;

(2) Aptos;

(3) Calibri;

(4) Century Schoolbook;

(5) Garamond;

(6) Georgia;

(7) Lucinda Sans;

(8) Times New Roman;

(9) Trebuchet; and

(10) Verdana.

§57.4. Electronic Delivery and Signature of Notices.

Any notice or disclosure required by Finance Code Chapter 157, or this chapter, may be provided and signed in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The UETA and E-Sign Act include requirements for electronic signatures and delivery.

§57.5. Computation of Time.

The calculation of any time period measured in days by Finance Code Chapter 157, or this chapter, is made using calendar days, unless clearly stated otherwise. In computing a period of calendar days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.

§57.6. Enforceability of Liens.

A violation of Finance Code Chapter 157, or this chapter, does not render an otherwise lawfully taken lien invalid or unenforceable.

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 26, 2024.

TRD-202403934
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. REGISTRATION

7 TAC §§57.100 - 57.104, 57.106, 57.107

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter

157 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 et seq.; federal SAFE Act). §57.100 is also proposed under the authority of, and to implement, Finance Code §157.003. §§56.101 - 57.103 are also proposed under the authority of, and to implement, Finance Code §157.006 - 157.0062. §57.104 is also proposed under the authority of, and to implement, Finance Code §157.005. §57.107 is also proposed under the authority of, and to implement, Finance Code §157.019.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act.

§57.100. Registration Requirements.

(a) Registration Required. A person, unless exempt as provided by Finance Code §157.004, is required to be registered with SML as a mortgage banker under Finance Code Chapter 157 if the person engages in or conducts the business of a mortgage banker or advertises or holds that person out to the public as engaging in or conducting the business of a mortgage banker concerning a loan or prospective loan secured or designed to be secured by residential real estate located in Texas, including, but not limited to:

(1) representing or holding that person out to the public through advertising or other means of communication as a mortgage banker; and

(2) receiving compensation for engaging in or conducting the business of a mortgage banker (a person must be registered at the time it receives compensation even if the compensation relates to services provided when the person was registered).

(b) Branch Office Registration Required. A mortgage banker must register each office constituting a branch office of the mortgage banker for purposes of §57.206 of this title (relating to Office Locations; Remote Work).

§57.101. Applications for Registration.

(a) NMLS. Applications for registration must be submitted through NMLS and must be made using the current form prescribed by NMLS. SML has published application checklists on the NMLS Resource Center website (nationwidelicensingsystem.org; viewable on the "State Licensing Requirements" webpage) which outline the requirements to submit an application. Applicants must comply with requirements in the checklist in making the application.

(b) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation deemed necessary or appropriate to determine that the registration requirements of Finance Code Chapter 157 are met.

(c) Incomplete Filings; Deemed Withdrawal. An application is complete only if all required information and supporting documentation is included and all required fees are received. If an application is incomplete, SML will send written notice to the applicant specifying the additional information, documentation, or fee required to render the application complete. The application may be deemed withdrawn and any fee paid will be forfeited if the applicant fails to provide the additional information, documentation, or fee within 30 days after the date written notice is sent to the applicant as provided by this subsection.

§57.102. Fees.

(a) Registration Fees. The registration fee is determined by the Commissioner in an amount not to exceed the maximum amount specified by Finance Code §157.006, exclusive of fees charged by NMLS, as described in subsection (b) of this section. The Commissioner may establish different fee amounts for a new registration versus renewal of the registration versus reinstatement of the registration. The current fee is set in NMLS and posted on SML's website (sml.texas.gov). The Commissioner may change the fee at any time; provided, any fee increase is not effective until notice has been posted on SML's website for at least 30 days. The registration fee must be paid in NMLS.

(b) NMLS Fees. NMLS charges a separate fee to process the application. Such fee is determined by NMLS and must be paid by the applicant at the time it files the application. The current fee is set in NMLS and posted on the NMLS website (nationwidelicensingsystem.org).

(c) All fees are nonrefundable and nontransferable.

§57.103. Renewal of the Registration.

(a) A registration may be renewed on:

(1) timely submission of a completed renewal application (renewal request) in NMLS together with payment of all required fees; and

(2) a determination by SML that the mortgage banker continues to meet the minimum requirements for registration, including the requirements of Finance Code §157.003(b).

(b) Commissioner's Discretion to Approve with a Deficiency. The Commissioner may, in her or her sole discretion, approve a renewal request with one or more deficiencies the Commissioner deems to be relatively minor and allow the mortgage banker to continue conducting regulated activities while the mortgage banker works diligently to resolve the deficiencies. A renewal request approved by the Commissioner under this subsection will be assigned the NMLS license status "Approved - Deficient." Approval under this subsection does not relieve the mortgage banker of the obligation to resolve the deficiencies. A mortgage banker approved under this subsection must resolve the deficiencies within 30 days after the date the license is approved, unless an extension of time is granted by the Commissioner. Failure to timely resolve the deficiencies constitutes grounds for the Commissioner to suspend or revoke the registration.

(c) Reinstatement. This section applies to a person seeking reinstatement of an expired registration (bearing the registration status "Terminated - Failed to Renew") described by Finance Code §157.0062 and must be construed accordingly. A mortgage banker registration cannot be renewed beyond the reinstatement period; instead, the person must apply for a new registration and comply with all current requirements and procedures governing issuance of a new registration.

§57.104. NMLS Records; Notices Sent to the Mortgage Banker.

(a) NMLS Registration Status. SML is required to assign a status to the registration in NMLS. The registration status is displayed in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org). SML is limited to the registration status options available in NMLS. The NMLS Resource Center website (nationwidelicensingsystem.org) describes the available registration status options and their meaning.

(b) Amendments to NMLS Records Required. A mortgage banker must amend its NMLS registration records (MU1 filing) within 10 days after the date of any material change affecting any aspect of the MU1 filing, including, but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to SML establishing the name change);

(2) the addition or elimination of an assumed name (also known as a trade name or "doing business as" name; which must be accompanied by a certificate of assumed business name or other documentation establishing or abandoning the assumed name);

(3) the contact information under "Identifying Information":

(4) the contact information under "Resident/Registered Agent";

(5) the contact information under "Contact Employee Information"; and

(6) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(c) Amendments to MU2 Associations Required. A mortgage banker must cause the individuals who are required to register an association with the mortgage banker (control persons) to make the proper filings in NMLS using the current form prescribed by NMLS (MU2 filing) and must ensure such associations are amended within 10 days after the date of any material change affecting such associations.

(d) Notices Sent to the Mortgage Banker. Any correspondence, notification, alert, message, official notice or other written communication from SML will be sent to the mortgage banker in accordance with this subsection using the mortgage banker's current contact information of record in NMLS unless another method is required by other applicable law.

(1) Service by Email. Service by email is made using the email address the mortgage banker has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by email is complete on transmission of the email to mortgage banker's email service provider; provided, SML does not receive a "bounce back" notification, or similar, from the email service provider indicating that delivery was not effective. A mortgage banker must monitor such email account and ensure that emails sent by SML are not lost in a "spam" or similar folder, or undelivered due to intervention by a "spam filter" or similar service. A mortgage banker is deemed to have constructive notice of any emails sent by SML to the email address described by this paragraph. A mortgage banker is further deemed to have constructive notice of any NMLS system notifications sent to it by email.

(2) Service by Mail. Service by mail is made using the address the mortgage banker has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by mail is made using the address the mortgage banker has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the mortgage banker by mail and the document communicates a deadline by or a time during which the mortgage banker must perform some act, such deadline or time period for action is extended by 3 days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

§57.106. Surrender of the Registration.

(a) Surrender Request. A mortgage banker may seek surrender of the registration by filing a registration surrender request (request) in NMLS. The request must be made using the current form prescribed by NMLS. SML will review the request and determine whether to grant it. SML may not grant the request if, among other reasons:

(1) the mortgage banker is the subject of a pending or contemplated investigation or enforcement action;

(2) the mortgage banker is in violation of an order of the Commissioner;

(3) the mortgage banker has failed to pay any fee, charge, or other indebtedness owed to SML; or

(4) the mortgage banker has failed to file mortgage call reports required by §57.205 of this title (relating to Mortgage Call Reports).

(b) Inactive Status Pending Surrender. If SML does not grant the request or requires additional time to consider the request, the request will be left pending while the issue preventing SML from granting the request is resolved or lapses. During this time, the mortgage banker's registration will be assigned the license status "Approved - Inactive" in NMLS.

§57.107. Sponsorship of Originator; Responsibility for Originator's Actions.

(a) Sponsorship Required. A mortgage banker conducts origination activity through one or more originators who must be sponsored by the mortgage banker in NMLS. To sponsor an originator, the mortgage banker must first register a relationship with the originator in NMLS. When a relationship has been registered, the mortgage banker may then file a request in NMLS to establish sponsorship of the originator. An originator must make filings in NMLS to establish such sponsorship. Sponsorship is not effective until the sponsorship request has been reviewed and approved by SML. A mortgage banker must not allow an individual to act on its behalf in the capacity of an originator until such sponsorship has been established and is effective. Information about how to file for sponsorship is available on the NMLS Resource Center website (nationwidelicensingsystem.org).

(b) Responsibility for Originator's Actions. By sponsoring an originator, or otherwise allowing an individual to act on its behalf in the capacity of an originator, the mortgage banker assumes responsibility for the actions of such originator or individual acting in the capacity of an originator. All violations of law by an originator or individual acting in the capacity of an originator are deemed to be attributable and imputed to the mortgage banker sponsoring the originator or for which the individual acting as an originator was allowed to act, and the Commissioner may take action against the mortgage banker under Finance Code §157.009 and seek disciplinary action against the originator simultaneously for the same conduct giving rise to the violation. As a result, a mortgage banker is charged with knowledge of and must ensure compliance by their sponsored originators with the requirements of Finance Code Chapters 157 and 180, and of SML's rules in Chapter 55 of this title (relating to Residential Mortgage Loan Originators).

(c) Termination of Sponsorship. Sponsorship may be terminated by either the sponsoring mortgage banker or the sponsored originator. If sponsorship is terminated, the party terminating the sponsorship must immediately notify SML of the termination by making a filing in NMLS to terminate the sponsorship, as provided by Finance Code §157.019.

(d) Failure to Maintain Sponsored Originator; Inactive Status. If a mortgage banker does not have any licensed and sponsored originators, the license will be assigned the status "Approved - Inactive," during which time the mortgage banker must not conduct regulated activities.

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 26, 2024.

TRD-202403936

Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§57.200 - 57.207, 57.210

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). §57.200 is also proposed under the authority of, and to implement, Finance Code §157.0021. §57.201 is also proposed under the authority of, and to implement, Finance Code: §157.0023(b) and §157.02012. §§57.202, 57.203, 57.207, and 57.210 are also proposed under the authority of, and to implement, Finance Code §157.009. §57.204 is also adopted under the authority of, and to implement, Finance Code §157.02015(b). §57.205 is also proposed under the authority of, and to implement, Finance Code §157.020. §57.206 is also proposed under the authority of, and to implement, Finance Code §157.003(6).

This proposal affects the statutes in Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act.

§57.200. Required Disclosures.

(a) Purpose. This section clarifies and establishes requirements related to the disclosures a mortgage banker is required to make under Finance Code §157.0021.

(b) Specific Notice to Applicant (Origination Notice). A mortgage banker must send written notice to a mortgage applicant concerning SML's regulatory oversight. The notice must be sent at the time the mortgage banker and its sponsored originator receives the initial application for a residential mortgage loan. The notice may be provided to the mortgage applicant by any means allowing for the mortgage banker to capture and maintain records reflecting timely delivery, as required by §57.204(c)(2)(A)(iv) of this title (relating to Books and Records). The notice may be signed and dated by the mortgage applicant to evidence receipt. The notice must be in the form adopted by this subsection. However, the form may be modified by adding other identifying information for the transaction (e.g., loan identification number, or the name and NMLS ID of the mortgage banker or the investor); provided, any information added to the form is not misleading and does not contradict or frustrate the purpose of the disclosure.
Figure: 7 TAC §57.200(b)

(c) Posted Notice on Websites. A mortgage banker must post a notice concerning SML's regulatory oversight on each website of the mortgage banker, other than a social media site, that is accessible by a mortgage applicant or prospective mortgage applicant and either used to conduct residential mortgage loan origination business or from which the mortgage banker advertises to solicit such business, as provided by §57.203 of this title (relating to Advertising). The notice must be in the current form prescribed by SML and posted on its website (sml.texas.gov). The notice must be displayed on the initial or home page of the website (typically the base-level domain name) or contained in a linked webpage with the link to such webpage displayed on the initial or home page.

(d) Disclosures in Correspondence. All correspondence sent to a mortgage applicant or borrower must include:

(1) the mortgage banker's name and NMLS ID; and

(2) the mortgage banker's website address, if it has a website.

(e) Specific Notice to Borrower (Servicing Notice). A mortgage banker that acts as a residential mortgage loan servicer must send written notice to the borrower concerning SML's regulatory oversight within 30 days after the date it begins servicing a residential mortgage loan. The notice must be in the current form prescribed by the SML and posted on its website. The notice must be included in the first notice sent to the borrower that notifies the borrower of the mortgage banker's role in servicing the loan, including any notice required by Regulation X (12 C.F.R. §1024.33(b)). This subsection applies to the servicing of residential mortgage loans secured by real property located in Texas. Mortgage bankers servicing a residential mortgage loan not secured by real property located in Texas must not provide the notice described by this subsection.

§57.201. Conditional Pre-Qualification and Conditional Approval Letters.

(a) Conditional Pre-Qualification Letter. Except as provided by subsection (c) of this section, when provided to a mortgage applicant or prospective mortgage applicant, written confirmation of conditional pre-qualification (conditional pre-qualification letter) must include the information in Form A, Figure: 7 TAC §57.201(a). The information must be provided using Form A or an alternate form approved by the mortgage banker that includes all of the information found on Form A. There is no requirement to issue a conditional pre-qualification letter. Form A or an alternate form may be modified by adding any of the following as needed:
Figure: 7 TAC §57.201(a)

(1) Any additional aspects of the loan as long as not misleading;

(2) Any additional items that the originator has reviewed in determining conditional qualifications; or

(3) Any additional terms, conditions, and requirements.

(b) Conditional Approval Letter. When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan approval on the basis of credit worthiness, but not on the basis of collateral (conditional approval letter), must include the information in Form B, Figure 7: TAC §57.201(b). The information can be provided using Form B or an alternate form approved by the mortgage banker that includes all of the information found on Form B. There is no requirement to issue a conditional approval letter. Form B or an alternate form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or a disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional approval letter must not be issued unless the mortgage banker or its sponsored originator has verified that, absent any material changes prior to closing, the mortgage applicant or prospective mortgage applicant has satisfied all loan requirements related to credit, income, assets, and debts. Verification may be conducted manually or by electronic means.
Figure: 7 TAC §57.201(b)

(c) Firm Offers of Credit. Subsection (a) of this section does not apply to "firm offers of credit," as defined by 15 U.S.C. §1681a(l).

(d) Issuance by the Originator. A conditional pre-qualification letter or conditional approval letter must be issued and signed by the mortgage banker's sponsored originator acting on behalf of the mortgage banker to originate the prospective residential mortgage loan.

§57.202. Fraudulent, Misleading, or Deceptive Practices and Improper Dealings.

(a) Fraudulent, Misleading, or Deceptive Practices. The following conduct by a mortgage banker or its sponsored originators constitutes fraudulent and dishonest dealings for purposes of Finance Code §157.009(d):

(1) knowingly misrepresenting the mortgage banker's or sponsored originator's relationship to a mortgage applicant or any other party to a residential mortgage loan transaction or prospective residential mortgage loan transaction;

(2) knowingly misrepresenting or understating any cost, fee, interest rate, or other expense to a mortgage applicant or prospective mortgage applicant in connection with a residential mortgage loan;

(3) knowingly overstating, inflating, altering, amending or disparaging any source or potential source of residential mortgage loan funds in a manner which disregards the truth or makes any knowing and material misstatement or omission;

(4) knowingly misrepresenting the lien position of a residential mortgage loan or prospective residential mortgage loan;

(5) knowingly participating in or permitting the submission of false or misleading information of a material nature to any person in connection with a decision by that person whether to make or acquire a residential mortgage loan;

(6) as provided by Regulation X (12 C.F.R. §1024.14), brokering, arranging, or making a residential mortgage loan for which the mortgage banker or sponsored originator receives compensation for services not actually performed or where the compensation received bears no reasonable relationship to the value of the services actually performed;

(7) recommending or encouraging default or delinquency or the continuation of an existing default or delinquency by a mortgage applicant on any existing indebtedness prior to closing a residential mortgage loan which refinances all or a portion of such existing indebtedness;

(8) altering any document produced or issued by SML, unless otherwise permitted by statute or a rule of SML;

(9) using a trigger lead in misleading or deceptive manner by, among other things:

(A) failing to state in the initial communication with the consumer:

(i) the mortgage banker's name;

(ii) a brief explanation of how the mortgage banker obtained the consumer's contact information to make the communication (i.e., an explanation of trigger leads);

(iii) that the mortgage banker is not affiliated with the creditor to which the consumer made the credit application that resulted in the trigger lead; and

(iv) that the purpose of the communication is to solicit new business for the mortgage banker;

(B) contacting a consumer who has opted out of prescreened offers of credit under the federal Fair Credit Reporting Act (FCRA; 12 U.S.C. §1681b(e)); or

(C) failing in the initial communication with the consumer to make a firm offer of credit as provided by the FCRA (12 U.S.C. §1681a(l) and §1681b(c)); or

(10) engaging in any other practice which the Commissioner, by published interpretation, has determined is fraudulent, misleading, or deceptive.

(b) Improper or Unfair Dealings. The following conduct by a mortgage banker or its sponsored originators constitutes improper dealings for purposes of Finance Code §157.009(d):

(1) acting negligently in performing an act requiring a registration under Finance Code Chapter 157 or a license under Finance Code Chapters 157 and 180;

(2) violating any provision of a local, State of Texas, or federal constitution, statute, rule, ordinance, regulation, or final court decision that governs the same or a closely related activity, transaction, or subject matter that is governed by the provisions of Finance Code Chapters 156, 157 or 180, including, but not limited to:

(A) Consumer Credit Protection Act, Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.) and Regulation B (12 C.F.R. §1002.1 et seq.);

(B) Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.);

(C) Regulation N (12 C.F.R. §1014.1 et seq.);

(D) Gramm-Leach-Bliley Act (GLBA; 15 U.S.C. §6801 et seq.), Regulation P (12 C.F.R. §1016.1 et seq.), and the Federal Trade Commission's (FTC) Privacy of Consumer Financial Information rules (16 C.F.R. §313.1 et seq.);

(E) Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(F) Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. 1024.1 et seq.);

(G) Consumer Credit Protection Act, Truth in Lending Act (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.);

(H) the FTC's Standards for Safeguarding Customer Information rule (16 C.F.R. §314.1 et seq.);

(I) Finance Code Chapter 159 and Chapter 59 of this title; and

(J) Texas Constitution, Article XVI, §50 and Chapter 153 of this title;

(3) soliciting by phone a consumer who has placed his or her contact information on the national do-not-call registry maintained by the Federal Trade Commission (FTC), unless otherwise allowable under the FTC's Telemarketing Sales Rule (16 C.F.R. §310.4(b)(iii)(B));

(4) Issuing a conditional pre-qualification letter or conditional approval letter under §57.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters) that does not comply with the required form for the letter or is inaccurate, erroneous, or negligently-issued;

(5) Representing to a mortgage applicant that a charge or fee which is payable to the mortgage banker or sponsored originator is a "discount point" or otherwise benefits the mortgage applicant unless the loan closes and:

(A) the mortgage banker is making the residential mortgage loan (lender); or

(B) the mortgage banker is not the lender but demonstrates by clear and convincing evidence that the lender has charged or collected discount points or other fees which the mortgage banker has actually paid to the lender on behalf of the mortgage applicant to buy down the interest rate on the residential mortgage loan.

(6) Failing to accurately respond within a reasonable time period to reasonable questions from a mortgage applicant concerning the scope and nature of the mortgage banker's services and any costs.

(7) allowing a licensed originator to act on behalf of the mortgage banker when the originator is not sponsored by the mortgage banker or otherwise holds his or her license in an inactive status; or

(8) using the services of mortgage company or mortgage banker to provide loan processing services when the mortgage company or mortgage banker providing the services holds its license or registration in an inactive status.

(c) Related Transactions. A mortgage banker engages in fraudulent and dishonest dealings for purposes of Finance Code §157.009(d) when, in connection with the origination of a residential mortgage loan:

(1) The mortgage banker or sponsored originator:

(A) offers other goods or services to a mortgage applicant in a separate but related transaction; and

(B) the mortgage banker or sponsored originator engages in fraudulent, misleading, or deceptive acts in the related transaction; or

(2) The mortgage banker or sponsored originator:

(A) affiliates with another person that provides goods or services to a mortgage applicant in a separate but related transaction;

(B) the affiliated person engages in fraudulent, misleading, or deceptive acts in that transaction;

(C) the mortgage banker or sponsored originator knew or should have known of the fraudulent, misleading, or deceptive acts of the affiliated person; and

(D) the mortgage banker or sponsored originator failed to take appropriate steps to prevent or limit the fraudulent, misleading, or deceptive acts.

(d) Sharing or Splitting Origination Fees with the Mortgage Applicant. A mortgage banker and its sponsored originators must not offer or agree to share or split any loan origination fees with a mortgage applicant, rebate all or a part of an origination fee to a mortgage applicant, reduce their established compensation to benefit a mortgage applicant, or otherwise provide money, a cash equivalent, or anything of value to a mortgage applicant in connection with providing residential mortgage loan origination services unless otherwise allowable under Regulation X (12 C.F.R. §1024.14) and Regulation Z (12 C.F.R. §1026.36(d)). A sponsored originator acting in the dual capacity of an originator and real estate broker or sales agent licensed under Occupations Code Chapter 1101 may rebate their fees legitimately earned and derived from their real estate brokerage or sales agent services to the extent allowable under applicable law governing real estate brokers or sales agents; provided, the payment or other transfer described by this subsection occurs as a part of closing and is properly reflected in the closing disclosure. If a payment or other transfer described by this subsection occurs after closing, a rebuttable presumption exists that the payment or transfer is derived from the originator's fees for residential mortgage loan origination services and constitutes an improper sharing or splitting of fees with the mortgage applicant. The rebuttable presumption may only be overcome by clear and convincing evidence established by the mortgage banker or sponsored originator that the payment or transfer is instead derived from fees for real estate brokerage or sales agent services. A violation of this subsection is deemed to constitute improper dealings for purposes of Finance Code §157.009(d).

§57.203. Advertising.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a residential mortgage loan transaction or is otherwise designed to solicit residential mortgage loan origination business for the mortgage banker or its sponsored originators. The term includes "flyers," business cards, or other handouts, and messages or posts made on a social media site. The term does not include:

(A) any advertisement which indirectly promotes a residential mortgage loan transaction and contains only the name of the mortgage banker or sponsored originator and not any contact information with the exception of a website address, such as on cups, pens or pencils, shirts or other clothing (including company uniforms and sponsored youth league jerseys), or other promotional items of nominal value;

(B) any rate sheet, pricing sheet, or similar proprietary information provided to realtors, builders, and other commercial entities that is not intended for distribution to consumers; or

(C) signs located on or adjacent to the mortgage banker's registered office as provided by §57.206 of this title (relating to Office Locations; Remote Work).

(2) "Team logo" means a logo, symbol, or other graphic used to identify the group using a team name.

(3) "Team name" means a name other than the mortgage banker's legal name or a properly registered assumed name typically used by a geographically or administratively distinct group of employees working for the mortgage banker as a division or team within the larger organization (e.g., the employees of a branch office).

(b) Compliance with Federal Law. A mortgage banker or sponsored originator that advertises rates, terms, or conditions must comply with the requirements of Regulation N (12 C.F.R. §1014.1 et seq.) and Regulation Z (12 C.F.R. §1026.24).

(c) Required Content. Except as provided by subsections (d) and (e) of this section, an advertisement must contain:

(1) the mortgage banker's name and NMLS ID;

(2) the mortgage banker's website address, if it has a website; and

(3) the sponsored originator's name and NMLS ID.

(d) Advertising Directly by a Mortgage Banker. A mortgage banker may advertise directly to the public and is not required to advertise through a sponsored originator. The requirements of subsection (c)(3) of this section do not apply to an advertisement made directly by a mortgage banker.

(e) Advertising on Social Media Sites. If the mortgage banker or sponsored originator advertises on a social media site, the requirements of subsection (c) of this section may be met by prominently displaying the required information on the home page, profile page, or similar, on such social media site so that the viewer can quickly discern the information without reviewing various historical content posted by the mortgage banker or sponsored originator on the social media site.

(f) Use of Team Names and Team Logos. A mortgage banker and its sponsored originators may use team names and team logos in advertisements if the following requirements are met:

(1) Team names and team logos are permitted for advertising purposes only. A team name or team logo may not be used to conduct residential mortgage loan origination business. For clarity, a team name or team logo may not appear on any documentation sent to the mortgage applicant in connection with a residential mortgage loan or on any documentation in the residential mortgage loan file a mortgage banker is required to maintain under §57.204(c)(2) of this title (relating to Books and Records).

(2) The mortgage banker's legal name or an assumed name of the mortgage banker and its NMLS ID must be used with the team name or team logo, in substantially equivalent prominence, and must be connected with an explanatory word or phrase that clearly links the two (e.g., "(team name) of (mortgage banker name and NMLS ID)" or "(team name) powered by (mortgage banker name and NMLS ID"). The information must be presented in a manner that makes it readily apparent to the viewer what mortgage banker is making the advertisement. The mortgage banker may not obscure the information by, among other things, using graphics, shading, or coloration to deemphasize or mask the appearance of the mortgage banker's name and NMLS ID. If the advertisement is made on a social media site, the requirements of this paragraph may be met by prominently displaying the information on the home page, profile page, or similar, on such social media site so that the viewer can quickly discern the information without reviewing various historical content posted by the mortgage banker or sponsored originator on the social media site.

(3) If a team logo is used, it must be used with the team name, unless the team name is contained in the team logo, and if so, the team logo may be used without the team name.

§57.204. Books and Records.

(a) Purpose and Applicability. This section clarifies and establishes requirements related to the books and records a mortgage banker and its sponsored originators are required to keep under Finance Code §157.021. Subsection (c) of this section applies to a mortgage banker and its sponsored originators in connection with the origination of residential mortgage loans. Subsection (d) of this section applies to a mortgage banker and its sponsored originators in connection with the provision of third-party loan processing or underwriting services.

(b) Maintenance of Records, Generally. In order to ensure a mortgage banker and its sponsored originators have all records necessary to facilitate an inspection (including an examination) by SML of the mortgage banker's sponsored originators, enable SML to investigate complaints against a mortgage banker or its sponsored originators, and otherwise ensure compliance with the requirements of Finance Code Chapter 157, and this chapter, a mortgage banker and its sponsored originators must maintain records as prescribed by this section in connection with the mortgage banker's origination of residential mortgage loans or the provision of third-party loan processing or underwriting services by the mortgage banker.

(1) Format. The records required by this section may be maintained using a physical, electronic, or digitally-imaged recordkeeping system, or a combination thereof. The records must be accurate, complete, current, legible, and readily accessible and sortable.

(2) Location. A mortgage banker and its sponsored originators must ensure the records required by this section (or true and correct copies thereof) are maintained at or are otherwise readily accessible from either the main office of the mortgage banker or the location the mortgage banker has designated in its MU1 filing under "Books and Records Information" in NMLS. (For purposes of this section "main office" has the meaning assigned by §57.206 of this title (relating to Office Locations; Remote Work.)

(3) Production of Records; Disciplinary Action. All records required by this section must be maintained in good order and produced to SML upon request. Failure by a mortgage banker's sponsored originator to produce records upon request after a reasonable time for compliance may result in disciplinary action against the originator, including, but not limited to, suspension or revocation of the originator's license. Failure by a mortgage banker to produce records upon request after a reasonable time for compliance in response to a complaint investigation conducted by SML may be treated as a failure by the mortgage banker to provide evidence in violation of the requirements of Finance Code §157.0022(b).

(4) Retention Period. All records required by this section must be maintained for 3 years or such longer period as may be required by other applicable law. If a mortgage banker terminates operations, the mortgage banker, within 10 days after the date the mortgage banker terminates operations, must provide SML with written notice of where the records required by this section will be maintained for the required period. If such records are transferred to another mortgage banker registered with SML, the transferee must provide SML with written notice within 10 days after the date it receives such records.

(5) Maintenance by the Mortgage Banker. A mortgage banker is required to maintain records on behalf of the originators it sponsors in connection with work performed by the originator for that mortgage banker.

(6) Conflicting Law. If the requirements of other applicable law governing recordkeeping by the mortgage banker or its sponsored originators differ from the requirements of this section, such other applicable law prevails only to the extent this section conflicts with the requirements of this section.

(c) Required Records (Origination). A mortgage banker and its sponsored originators are required to maintain the following items in connection with the origination of residential mortgage loans by the mortgage banker:

(1) Mortgage Transaction Log. A mortgage transaction log maintained on a current basis (meaning all entries must be made within 7 days after the date on which the events they relate to occurred, and updated as the information changes) setting forth, at a minimum (the log may include additional information, provided, the information is readily sortable as required by subsection (b)(1) of this section):

(A) full name of each mortgage applicant (last name, first name);

(B) application/loan identification number assigned by the mortgage banker;

(C) loan identification number assigned by the lender, if different than subparagraph (B) of this paragraph;

(D) date of the initial loan application;

(E) address of the subject property (street address, city, state, zip code);

(F) interest rate;

(G) description of the purpose for the loan (e.g., purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.);

(H) loan product (conventional, FHA, VA, reverse, etc.);

(I) full name of the lender that initially funded or acquired the loan and their NMLS ID, if applicable;

(J) full name of the originator who took the initial loan application and his or her NMLS ID;

(K) closing date;

(L) lien position (e.g., first lien, second lien, or wrap mortgage);

(M) description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence)); and

(N) description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied);

(2) Residential Mortgage Loan File. For each residential mortgage loan transaction or prospective residential mortgage loan transaction, a residential mortgage loan file containing, at a minimum:

(A) All Transactions. For all transactions, the following records:

(i) the initial and any final loan application (including any attachments, supplements, or addendum thereto), signed and dated by each mortgage applicant and the sponsored originator, and any other written or recorded information used in evaluating the application, as required by Regulation B (12 C.F.R. §1002.4(c));

(ii) the initial and any revised good faith estimate (Regulation X, 12 C.F.R. §1024.7), integrated loan estimate disclosure (Regulation Z, 12 C.F.R. §1026.37), or similar, provided to the mortgage applicant;

(iii) the final settlement statement (Regulation X, 12 C.F.R §1024.8), closing statement, or integrated closing disclosure (Regulation Z, 12 C.F.R. §1026.19(f) and §1026.38);

(iv) the disclosure required by Finance Code §157.0021 and §57.200(b) of this title (relating to Required Disclosures), and records reflecting timely delivery of the disclosure to the mortgage applicant;

(v) if provided to a mortgage applicant or prospective mortgage applicant, the conditional pre-qualification letter, or similar, as specified by Finance Code §157.02012 and §57.201 of this title (relating to Conditional Pre-Qualification and Conditional Approval Letters);

(vi) if provided to a mortgage applicant or prospective mortgage applicant, the conditional approval letter, or similar, as specified by Finance Code §157.02012 and §57.201 of this title;

(vii) each item of correspondence, all evidence of any contractual agreement or understanding, and all notes and memoranda of conversations or meetings with a mortgage applicant or any other party in connection with the loan application or its ultimate disposition (e.g., fee agreements, rate lock agreements, or similar documents);

(viii) if the loan is a "home loan" as defined by Finance Code §343.001, the notice of penalties for making a false or misleading written statement required by Finance Code §343.105, signed at closing by each mortgage applicant;

(ix) if the transaction is a purchase money or wrap mortgage loan transaction, the real estate sales contract or real estate purchase agreement for the sale of the residential real estate;

(x) consumer reports or credit reports obtained in connection with the residential mortgage loan or prospective residential mortgage loan, and if a fee is paid by or imposed on the mortgage applicant for such consumer report or credit report, invoices and proof of payment for the purchase of the consumer report or credit report;

(xi) appraisal reports or written valuation reports used to determine the value of the residential real estate secured or designed to be secured by the loan, and if a fee is paid by or imposed on the mortgage applicant for such appraisal report or written valuation report, invoices and proof of payment for the appraisal report or written valuation report;

(xii) invoices and proof of payment for any third-party fees paid by or imposed on the mortgage applicant;

(xiii) refund checks issued to the mortgage applicant;

(xiv) if applicable, the risk-based pricing notice required by Regulation V (12 C.F.R. §1022.72);

(xv) if applicable, invoices for independent loan processors or underwriters;

(xvi) if the mortgage banker or sponsored originator acts in a dual capacity as the loan originator and real estate broker, sales agent, or attorney in the transaction, the disclosure of multiple roles in a consumer real estate transaction, signed and dated by each mortgage applicant, as required by Finance Code §157.024(a)(10);

(xvii) the initial privacy notice required by Regulation P (12 C.F.R. §1016.4) or the Federal Trade Commission's Privacy of Consumer Financial Information rules (16 C.F.R. §313.4);

(xviii) the mortgage applicant's written authorization to receive electronic documents as required by the E-Sign Act and Regulation Z (12 C.F.R. §1026.17(a)(1));

(xix) records reflecting compensation paid to employees or independent contractors in connection with the transaction;

(xx) any other agreements, notices, disclosures, or affidavits required by federal or state law in connection with the transaction; and

(xxi) any written agreements or other records governing the origination of the residential mortgage loan or prospective residential mortgage loan;

(B) Lender Transactions. For transactions where the mortgage banker made the loan (lender), the following records:

(i) the promissory note, loan agreement, or repayment agreement, signed by the borrower (mortgage applicant);

(ii) the recorded deed of trust, contract, security deed, security instrument, or other lien transfer document, signed by the borrower (mortgage applicant);

(iii) any verifications of income, employment, or deposits obtained in connection with the loan;

(iv) copies of any title insurance policies with endorsements or title search reports obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such title insurance policies or title search reports, invoices and proof of payment for the title insurance policy or title search report; and

(v) if applicable, the flood determination certificate obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such flood certificate, invoices and proof of payment for the flood determination certificate;

(C) Truth in Lending Act (TILA). For transactions that are subject to the requirements of TILA (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.), the following records:

(i) the initial Truth-in-Lending statement for home equity line of credit and reverse mortgage transactions required by Regulation Z (12 C.F.R. §1026.19);

(ii) if the transaction is an adjustable rate mortgage transaction, the adjustable rate mortgage program disclosures;

(iii) records relating to the mortgage applicant's ability to repay the loan, as required by Regulation Z (12 C.F.R. §1026.43(c));

(iv) if the mortgage applicant is permitted to shop for a settlement service, the written list of providers required by Regulation Z (12 C.F.R. §1026.19(e)(1)(vi)(C));

(v) the notice of intent to proceed with the transaction required by Regulation Z (12 C.F.R. §1026.19(e)(2)(i)(A));

(vi) if applicable, records related to a changed circumstance required by Regulation Z (12 C.F.R. §1026.19(e)(3)(iv));

(vii) the notice of right to rescission required by Regulation Z (12 C.F.R. §1026.15 or §1026.23);

(viii) for high-cost mortgage loans, the disclosures required by Regulation Z (12 C.F.R. §1026.32(c));

(ix) for high-cost mortgage loans, the certification of counseling required by Regulation Z (12 C.F.R. §1026.34(a)(5)(i));

(x) for home equity line of credit transactions:

(I) the account-opening disclosure required by Regulation Z (12 C.F.R. §1026.6(a));

(II) the early disclosure statement required by Regulation Z (12 C.F.R. §1026.40(d));

(III) the Home Equity Line of Credit Brochure required by Regulation Z (12 C.F.R. §1026.40(e)); and

(xi) any other notice or disclosure required by TILA or Regulation Z;

(D) Real Estate Settlement Procedures Act (RESPA). For transactions that are subject to the requirements of RESPA (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.), the following records:

(i) records reflecting delivery of the special information booklet required by Regulation X (12 C.F.R. §1024.6);

(ii) any affiliated business arrangement disclosure statement provided to the mortgage applicant in accordance with Regulation X (12 C.F.R. §1024.15);

(iii) records reflecting delivery of the list of homeownership counseling organizations required by Regulation X (12 C.F.R. §1024.20); and

(iv) any other notice or disclosure required by RESPA or Regulation X;

(E) Equal Credit Opportunity Act - Transactions Not Resulting in Approval. For residential mortgage loan applications where a notice of incompleteness is issued, a counteroffer is made, or adverse action is taken, as provided by Regulation B (12 C.F.R. §1002.1 et seq.), the following records, as applicable:

(i) the notice of incompleteness required by Regulation B (12 C.F.R. §1002.9(c)(2));

(ii) the counteroffer letter sent to the mortgage applicant in accordance with Regulation B (12 C.F.R. §1002.9); and

(iii) the adverse action notification (a/k/a turndown letter) required by Regulation B (12 C.F.R. §1002.9(a));

(F) Home Equity Transactions. For home equity loan transactions or home equity line of credit transactions, the following records (references in this subparagraph to Section 50 refer to Article XVI, Section 50, Texas Constitution; see also subparagraph (C)(x) of this paragraph):

(i) the preclosing disclosures required by Section 50(a)(6)(M)(ii) and §153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii); as provided by such section, the closing disclosure or account-opening disclosures required by Regulation Z fulfills this requirement);

(ii) the consumer disclosure required by Section 50(g) and §153.51 of this tile (relating to Consumer Disclosure: Section 50(g));

(iii) if an attorney-in-fact executes the closing documents on behalf of the owner or owner's spouse, a copy of the executed power of attorney and any other documents evidencing execution of such power of attorney at the permanent physical address of an office of the lender, an attorney at law, or a title company, as required by §153.15 of this title (relating to Location of Closing: Section 50(a)(6)(N));

(iv) if the borrower (mortgage applicant) uses the proceeds of the loan to pay off a non-homestead debt with the same lender, a written statement, signed by the mortgage applicant, indicating the proceeds of the home equity loan were voluntarily used to pay such debt (see Section 50(a)(6)(Q)(i));

(v) notice of the right of rescission, as required by Section 50(a)(6)(Q)(viii) (as provided by §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the notice of right of rescission required by TILA and Regulation Z fulfills this requirement);

(vi) the written acknowledgement as to the fair market value of the homestead property, as required by Section 50(a)(6)(Q)(ix) and §153.26 of this title (relating to Acknowledgement of Fair Market Value: Section 50(a)(6)(Q)(ix));

(vii) any discount point acknowledgement form used by the lender to substantiate that the discount points are bona fide as required by §153.5 of this title (relating to Two Percent Fee Limitation: Section 50(a)(6)(E));

(viii) the Texas Home Equity Affidavit and Agreement (Fannie Mae Form 3185), or similar;

(ix) for home equity line of credit transactions, the Texas Home Equity Line of Credit Agreement or repayment agreement;

(x) if the home equity loan is refinanced into a non-home equity loan, the Texas Notice Concerning Refinance of Existing Home Equity to Non-Home Equity Loan, as required by Section 50(f)(2)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f));

(G) Wrap Mortgage Loans. For wrap mortgage loan transactions subject to the requirements of Finance Code Chapter 159, the following records:

(i) the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure), signed and dated by each mortgage applicant, and any foreign language disclosure statement required by Finance Code §159.102;

(ii) the disclosure statement required by Property Code §5.016 provided to each existing lienholder (the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure) referenced in clause (i) of this subparagraph fulfills this requirement if it was provided to each existing lienholder); and

(iii) documents evidencing that the wrap mortgage loan was closed by an attorney or a title company, as required by Finance Code §159.105;

(H) Home Improvement Loans. For home improvement transactions (including repair, renovation, and new construction), the following records:

(i) the mechanic's lien contract;

(ii) documents evidencing the transfer of lien from the contractor to the lender;

(iii) the residential construction contract;

(iv) notice of the right of rescission required by Section 50(a)(5)(C) (the notice of right of rescission required by TILA and Regulation Z fulfills this requirement); and

(v) any other notice or disclosure required by Property Code Chapter 53;

(I) Reverse Mortgages. For reverse mortgage transactions, the following records:

(i) the disclosure required by Section 50(k)(9);

(ii) the certificate of counseling required by Section 50(k)(8);

(iii) the servicing disclosure statement required by Regulation X (12 C.F.R. §1024.33(a));

(iv) the disclosures required by Regulation Z (12 C.F.R. §1026.33(b)); and

(v) any other notice or disclosure required by federal or state law to originate a reverse mortgage;

(d) Required Records (Loan Processing and Underwriting). A mortgage banker and its sponsored originators must maintain the following items in connection with the provision of third-party loan processing and underwriting services by the mortgage banker to a mortgage company licensed by SML or a mortgage banker registered with SML: Loan Processing and Underwriting Log. A loan processing and underwriting log, maintained on a current basis (meaning all entries must be made within 7 days after the date on which the events they relate to occurred and updated as the information changes) that sets forth, at a minimum (the log may include additional information, provided, the information is readily sortable as required by subsection (b)(1) of this section):

(1) full name of each mortgage applicant (last name, first name);

(2) application/loan identification number assigned by the mortgage banker;

(3) application/loan identification number assigned by the mortgage company or mortgage banker to which the mortgage banker is providing loan processing or underwriting services, if different than paragraph (2) of this subsection;

(4) loan identification number assigned by the lender, if different than paragraphs (2) or (3) of this subsection;

(5) address of the subject property (street address, city, state, zip code);

(6) full name and NMLS ID of the mortgage company or mortgage banker to which the mortgage banker is providing loan processing or underwriting services;

(7) the name, NMLS ID, and employment status (e.g., W-2 or 1099) of each individual loan processor or underwriter performing loan processing or underwriting services on behalf of the mortgage banker;

(8) closing date;

(9) description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence));

(10) description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied);

(11) dollar amount invoiced, assessed, charged, collected, or paid for the loan processing or underwriting services provided by the mortgage banker; and

(12) description of whether the fee for the loan processing or underwriting services was included on the Closing Disclosure as a fee paid directly to the mortgage banker at closing (e.g., on CD, or not on CD).

(e) Other Records Required by Federal Law. A mortgage banker and its sponsored originators must maintain such other books and records as may be required to evidence compliance with applicable federal laws and regulations, including, but not limited to:

(1) Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(2) Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.) and Regulation P (12 C.F.R. §1016.1 et seq.), and the regulations of the Federal Trade Commission (16 C.F.R. §313.1 et seq.);

(3) Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.);

(4) Regulation N (12 C.F.R. §1014.1 et seq.); and

(5) the FTC's Standards for Safeguarding Customer Information Rule (16 C.F.R. §314.1 et seq.).

(f) General Business Records. A mortgage banker and its sponsored originators must capture and maintain the following records generated in the normal course of doing business:

(1) all checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies thereof) relating to residential mortgage loan origination business;

(2) complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of a mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant;

(3) all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all mortgage banker employees, independent contractors, and all others compensated by the mortgage banker in connection with residential mortgage loan origination business;

(4) all written complaints or inquiries (or summaries of any verbal complaints or inquiries) along with any correspondence, notes, responses, and documentation relating thereto and the disposition thereof;

(5) all contractual agreements or understandings with third parties in any way relating to a residential mortgage loan transaction including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, investor contracts, or employment agreements;

(6) all reports of audits, examinations, inspections, reviews, investigations, or similar, performed by any third party, including any regulatory or supervisory authorities;

(7) all advertisements in the medium (e.g., recorded audio, video, Internet or social media site posting, or print) in which they were published or distributed; and

(8) policies and procedures related to the origination of residential mortgage loans by the mortgage banker and its sponsored originators, including, but not limited to:

(A) identity theft prevention program (red flags rule; 16 C.F.R. §681.1(d));

(B) anti-money laundering program (31 C.F.R. §1029.210);

(C) information security program (16 C.F.R. §314.3(a));

(D) ability-to-repay underwriting policies, if any, under Regulation Z (12 C.F.R. §1026.43(c));

(E) quality control policy, if any;

(F) compliance manual, if any; and

(G) personnel administration/employee policies, if any;

(g) Records Concerning Administrative Offices. A mortgage banker must maintain a list reflecting any office constituting an "administrative office" of the mortgage banker for purposes of §57.206 of this title (relating to Office Locations; Remote Work);

(h) Records Concerning Remote Work. A mortgage banker must maintain records reflecting its compliance with the requirements for remote work, as provided by §57.206 of this title;

(i) Records Concerning Voluntary Corrective Action. A mortgage banker must maintain records showing compliance with §57.303 of this title (relating to Corrective Action);

(j) Records Concerning Unclaimed Funds. A mortgage banker must maintain records showing compliance with §57.304 of this title (relating to Unclaimed Funds);

(k) Other Records Designated by SML. A mortgage banker and its sponsored originators must maintain such other books and records as SML may, from time to time, specify in writing.

§57.205. Mortgage Call Reports.

(a) Purpose. This section clarifies and establishes requirements related to the mortgage call reports a mortgage banker is required to file under Finance Code §157.020.

(b) NMLS Filing Requirements. Mortgage call reports must be filed in NMLS by the deadlines established by NMLS. The mortgage call report must be filed using the current form prescribed by NMLS. Information about how to file the mortgage call report and applicable filing deadlines is available on the NMLS Resource Center website (nationwidelicensingsystem.org).

(c) Components. The mortgage call report consists of three components, all of which must be completed:

(1) Residential Mortgage Loan Activity (RMLA);

(2) State-Specific Supplemental Form (SSSF); and

(3) Statement of Financial Condition.

(d) Partial Reporting Periods; Periods of Inactivity. A mortgage call report must be filed for all reporting periods during which the mortgage banker is registered, including partial periods, and periods during which the mortgage banker has no reportable activity.

(e) Extensions of Time. The Commissioner, in his or her sole discretion, may grant an extension of time to file the mortgage call report. A request for an extension of time must be made in writing and approved by the Commissioner.

(f) Duty to File Complete and Accurate Reports. The mortgage call report must contain complete and accurate information at the time it is filed. A mortgage call report containing incomplete or inaccurate information is deemed to be a failure to file the report. A mortgage banker must act diligently to compile the information necessary to complete the mortgage call report in advance of the deadline to file the mortgage call report. For clarity, the filing of incomplete or inaccurate information, even on a temporary basis with the intent to amend the filing with complete and accurate information, constitutes a violation of Finance Code §157.020, and this section, and may result in disciplinary action as described by subsection (g) of this section.

(g) Failure to File; Disciplinary Action. Failure to file a mortgage call report may result in disciplinary action, including, but not limited to, denial, suspension, or revocation of the registration, or the imposition of an administrative penalty.

§57.206. Office Locations; Remote Work.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Administrative office" means any office of a mortgage banker that is separate and distinct from its main office or a branch office, whether located in Texas or not, at which the mortgage banker conducts residential mortgage loan business in Texas. The term does not include a "remote location" as defined by this section. The term includes:

(A) an office or location at which the employees of the mortgage banker act solely in the capacity of a "loan processor or underwriter," as that term is defined by Finance Code §180.002;

(B) an office or location at which the employees of the mortgage banker perform solely administrative or clerical tasks on behalf of an individual licensed as an originator, as provided by Finance Code §180.002(19)(B)(i);

(C) with respect to a mortgage banker whose registration under Finance Code Chapter 157 reflects it acts as a servicer of residential mortgage loans, an office or location at which a mortgage banker or its employees solely perform activities relating to residential mortgage loan servicing, including:

(i) collection of the residential mortgage loan;

(ii) the administration of escrow accounts;

(iii) loss mitigation;

(iv) administering or enforcing the terms of a residential mortgage loan; or

(v) administering the terms of an investor servicing agreement for a residential mortgage loan; or

(D) an office or location which conducts any combination of activities described by subparagraphs (A) - (C) of this paragraph.

(2) "Branch office" means any office a mortgage banker maintains that is separate and distinct from its main office, whether located in Texas or not, at which it conducts residential mortgage loan origination business with mortgage applicants or prospective mortgage applicants in Texas or concerning residential real estate located in Texas. The term does not include:

(A) an office or location at which the employees of the mortgage banker act solely in the capacity of a "loan processor or underwriter," as that term is defined by Finance Code §180.002;

(B) an office or location at which the employees of the mortgage banker perform solely administrative or clerical tasks on behalf of an individual licensed as an originator, as provided by Finance Code §180.002(19)(B)(i);

(C) with respect to a mortgage banker whose registration under Finance Code Chapter 157 reflects it acts as a servicer of residential mortgage loans, an office or location at which a mortgage banker or its employees solely perform activities relating to residential mortgage loan servicing, including:

(i) collection of the residential mortgage loan;

(ii) the administration of escrow accounts;

(iii) loss mitigation;

(iv) administering or enforcing the terms of a residential mortgage loan; or

(v) administering the terms of an investor servicing agreement for a residential mortgage loan;

(D) an office or location which conducts any combination of activities described by subparagraphs (A) - (C) of this paragraph; or

(E) a "remote location" as defined by this section.

(3) "Main office" means the office the mortgage banker has listed in its NMLS registration (MU1 filing) as its "main address" (principal address) under "identifying information," and is therefore registered with SML.

(4) "Registered office" means a physical office of the mortgage banker that is registered with SML as its main office or a branch office.

(5) "Remote location" means a location other than a registered office or an administrative office of the mortgage banker from which the employees or sponsored originators of the mortgage banker conduct residential mortgage loan business as provided by subsection (c) of this section.

(b) Office Requirements. A mortgage banker must register any office constituting the main office or a branch office of the mortgage banker. A mortgage banker must also register any office or location it advertises or promotes to the general public as an office or location at which the mortgage banker's sponsored originators meet in-person with mortgage applicants or prospective mortgage applicants. A registered office must be a physical office and have a permanent physical or street address (a post office box or other similar arrangement is not sufficient). The main office or a branch office must be established by the mortgage banker. A sponsored originator cannot establish his or her own office other than an office or location from which he or she performs remote work as provided by subsection (c) of this section. A branch office must be registered with SML prior to conducting operations.

(c) Authorization for Remote Work. The employees of a mortgage banker and its sponsored originators may conduct business and work from a remote location to the same extent as if such employee or originators were physically present at a licensed or registered office of the mortgage banker; provided, the mortgage banker:

(1) maintains appropriate safeguards for the mortgage banker and its consumer data, information, and records, including the use of secure virtual private networks and data storage encryption (including cloud storage) where appropriate;

(2) employs appropriate risk-based monitoring and oversight processes for work performed from a remote location and maintains records of those processes;

(3) ensures that physical records containing consumer information are not maintained at a remote location (as defined by this section) and any electronic records containing consumer information located at or accessible from the remote location are secured;

(4) ensures that consumer information and records of the mortgage banker, including written procedures and training for work from remote locations authorized under this section, are accessible and available to SML on request;

(5) provides appropriate training to its employees and sponsored originators to ensure that remote employees or sponsored originators work in an environment conducive and appropriate to consumer privacy; and

(6) adopts, maintains, and follows written procedures to ensure that:

(A) the mortgage banker and its employees and sponsored originators comply with this section; and

(B) the employees and sponsored originators do not perform an activity from a remote location that would be prohibited at a registered office or administrative office of the mortgage banker.

§57.207. Periodic Statements.

A mortgage banker that acts a residential mortgage loan servicer and services a loan secured by a dwelling must comply with the requirements of Section 1026.41 of Regulation Z (12 C.F.R. §1026.41), governing the issuance, content, form, and layout of periodic statements sent to the borrower.

§57.210. Reportable Incidents.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Catastrophic event" means an event, other than a security event, that is unforeseen and results in extraordinary levels of

damage or disruption to operations (e.g., the destruction of a principal office or data center).

(2) "Reportable incident" means an incident or situation that presents a material risk, financial or otherwise, to a mortgage banker's operations or its customers. A reportable incident includes the following items, provided, it presents a material risk:

(A) a "catastrophic event" as defined by this subsection; or

(B) a "security event" as defined by this subsection.

(3) "Root cause analysis report" means a written report concerning the results or findings of an audit or investigation to determine the origin or root cause of a security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event.

(4) "Security event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form. It includes information that is encrypted, if the person with unauthorized access to the information can decrypt the data.

(b) Incident Report. Except as provided by subsection (c) of this section, a mortgage banker must submit a written report to SML concerning any reportable incident within 30 days after the date the mortgage banker becomes aware of the reportable incident. The report must include:

(1) a detailed description of the nature and circumstances of the reportable incident;

(2) the number of Texas residents affected or potentially affected by the reportable incident;

(3) the measures taken by the mortgage banker to resolve or address the reportable incident;

(4) the measures the mortgage banker plans to take to resolve or address the reportable incident; and

(5) the point of contact designated by the mortgage banker for inquires by SML about the reportable incident.

(c) Incidents Reported to Other Agencies. A mortgage banker must provide SML with a copy of the following notifications sent to other agencies at the time it makes the notification. Except as provided by subsection (d) of this section, a notification provided to SML under this subsection satisfies the requirement to file a report under subsection (b) of this section:

(1) the notification to the Federal Trade Commission (FTC) required by Section 314.4(j) of the FTC's Standards for Safeguarding Customer Information rules (16 C.F.R. §314.4(j)); and

(2) the notification to the Office of the Attorney General of Texas required by Business and Commerce Code §521.053(i).

(d) Root Cause Analysis for Security Events. For any security event triggering a notification described by subsection (c) of this section, the mortgage banker must provide SML with a root cause analysis report within 120 days after the date the mortgage banker becomes aware that the security event occurred.

(e) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation related to a reportable incident as SML deems necessary or appropriate.

(f) Confidentiality. Information reported under this section is deemed to be confidential information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §157.021 and §57.302 of this title (relating to Confidentiality of Examination, Investigation, and Inspection Information).

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 26, 2024.

TRD-202403937
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. SUPERVISION AND ENFORCEMENT

7 TAC §§57.300 - 57.304, 57.310, 57.311

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). §§57.300 - 57.304 are also proposed under the authority of, and to implement, Finance Code: §§157.0022, 157.009(d), 157.021, and 157.0211. §57.310 is also proposed under the authority of, and to implement, Finance Code: §157.003(e) and §157.009.

This proposal affects the statutes in Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act.

§57.300. Examinations.

(a) Purpose. This section clarifies and establishes requirements related to examinations of a mortgage banker's sponsored originators conducted by SML under Finance Code §157.021.

(b) State Examination System (SES). Examinations are conducted in SES. A mortgage banker must use SES to facilitate the examination.

(c) Examinations by Other State Agencies. SML may participate in, leverage, or accept an examination conducted by another state agency or regulatory authority if that state agency's or regulatory authority's mortgage regulation program is accredited by the Conference of State Bank Supervisors.

(d) Notice of Examination. Except when SML determines that giving advance notice would impair the examination, SML will give the primary contact person of the mortgage banker sponsoring the originator listed in NMLS or a person designated by the primary contact person advance notice of each examination. Such notice will be sent to the primary contact person's or designated person's mailing address or email address of record with NMLS and will specify the date on which SML's examiners are scheduled to begin the examination. Failure to receive the notice will not be grounds for delay or postponement of the examination. The notice will include a list of the documents and records that must be produced or made available to facilitate the examination.

(e) Examination Scope. Examinations will be conducted to determine compliance with Finance Code Chapters 157 and 180, and this chapter, and will specifically address whether:

(1) all persons are properly licensed and sponsored;

(2) all office locations are properly registered, as provided by §57.206 of this title (relating to Office Locations; Remote Work);

(3) all required books and records are being maintained in accordance with §57.204 of this title (relating to Books and Records);

(4) legal and regulatory requirements applicable to the mortgage banker and its sponsored originators are being properly followed (including, but not limited to, the requirements described in §57.202(b)(2) of this title (relating to Fraudulent, Misleading, or Deceptive Practices and Improper Dealings)); and

(5) other matters SML and its examiners deem necessary or advisable to carry out the purposes of Finance Code Chapters 157 and 180.

(f) Loan Sample. The examiners will review a sample of residential mortgage loan files identified by the examiners from the mortgage banker's mortgage transaction log required by §57.204(c)(1) of this title or the loan processing or underwriting log required by §57.204(d) of this title. The examiner may expand the number of files to be reviewed if, in his or her discretion, conditions warrant.

(g) Failure to Cooperate; Disciplinary Action. Failure by a mortgage banker or sponsored originator to cooperate with the examination or failure to grant the examiners access to books, records, documents, operations, and facilities may result in action against the mortgage banker under Finance Code §157.009 and disciplinary action against the originator including, but not limited to, imposition of an administrative penalty.

(h) Reimbursement for Costs. The examiners may require a mortgage banker, at its own cost, to make copies of loan files or such other books and records as the examiners deem appropriate. When SML must travel outside of Texas to conduct an examination of a mortgage banker's sponsored originators because the required records are maintained at a location outside of Texas, SML will require reimbursement for the actual costs incurred by SML in connection with such travel including, but not limited to, transportation, lodging, meals, communications, courier service and any other reasonably related costs. Costs assessed under this subsection will be invoiced in NMLS and must be paid in NMLS.

§57.301. Investigations.

(a) Purpose. This section clarifies and establishes requirements related to investigations SML conducts of a mortgage banker and its sponsored originators under Finance Code §157.009 and §157.021.

(b) Reasonable Cause. SML will conduct an investigation if it has reasonable cause to do so. Reasonable cause is deemed to exist if SML receives or discovers information from a source SML has not reason to believe is other than credible indicating that a violation of law more likely than not occurred that is within SML's authority to take action to address. The absence of reasonable cause to initiate an investigation does not constitute grounds to challenge and does not invalidate an action taken by SML to address a violation found during the course of an investigation.

(c) Investigation Methods. Investigations will be conducted as SML deems appropriate based on the relevant facts and circumstances then known. An investigation may include:

(1) review of documentary evidence;

(2) interviews with complainants, respondents, and third parties, and the taking of sworn written statements;

(3) obtaining information from other state or federal agencies, regulatory authorities, or self-regulatory organizations;

(4) requiring complainants or respondents to provide explanatory, clarifying, or supplemental information; and

(5) other lawful investigative methods SML deems necessary or appropriate.

§57.302. Confidentiality of Examination, Investigation, and Inspection Information.

(a) Purpose. This section clarifies and establishes requirements related to the confidentiality of information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §157.021.

(b) Confidential Information. All information obtained by SML during an examination, investigation, or inspection is confidential and cannot be released except as required or expressly permitted by law. The Finance Commission of Texas and the Commissioner have determined that the following information is confidential under Finance Code §157.021 (list is not exhaustive):

(1) any documents, data, data compilations, work papers, notes, memoranda, summaries, recordings, or other information, in whatever form or medium, obtained, compiled, or created during an examination, investigation, or inspection;

(2) information that is derived from or is the product of the confidential information described by paragraph (1) of this subsection, including any reports or other information chronicling or summarizing the results, conclusions, or other findings of an examination, investigation, or inspection, including assertions of an actual or apparent violation of law or any directives, mandates, or recommendations for action by the mortgage banker to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection; including, but not limited to, any corrective or remedial action directed by SML or taken by the mortgage banker under §57.303 of this title (relating to Corrective Action); and

(3) information that is derived from or is the product of the confidential information described by paragraphs (1) and (2) of this subsection, including any communications, documentary evidence, or other information concerning the mortgage banker's compliance with any directives, mandates, or recommendations for action by the mortgage banker and any corrective or remedial action taken by the mortgage banker to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the examination, investigation, or inspection.

(c) Loss of Confidentiality. Subsection (b) of this section notwithstanding, information described by that subsection is not confidential to the extent the information becomes publicly available in a disciplinary or enforcement action that is a contested case (i.e., information made part of the administrative record during an adjudicative hearing that is open to the public).

§57.303. Corrective Action.

(a) Corrective Action, Generally; Purpose. During an examination, investigation, or inspection, SML may determine that violations, deficiencies, or compliance issues (collectively, violations) occurred. Within the confidential environment of the examination, investigation, or inspection, SML may direct the mortgage banker to voluntarily take corrective action to address the violations identified during

the examination, investigation, or inspection. This section clarifies and establishes requirements related to such corrective action.

(b) Internal Reviews. If SML determines during an examination, investigation, or inspection that a violation may be systemic, SML may direct the mortgage banker to conduct its own internal review to self-identify any other violations, compile information concerning such violations, and report its findings to SML. SML may direct the mortgage banker to take corrective action for any violations identified during the review.

(c) Policies and Procedures and Internal Controls. SML may direct the mortgage banker to develop and adopt policies and procedures and institutional controls designed to prevent or mitigate future violations.

(d) Refunds to Consumers. SML may direct the mortgage banker to make refunds to consumers affected by the violation. Any refund must comply with this subsection. The Commissioner, in his or her sole discretion, may waive or modify the requirements of this subsection to achieve appropriate, practical, and workable results. A refund must be made by one of the following methods:

(1) Certified Funds. The refund may be made by certified funds (cashier's check or money order) sent to the mortgage applicant or borrower at his or her last known address. The mortgage banker must use reasonable diligence to determine the last known address of the mortgage applicant or borrower. The payment must be sent in a manner that includes tracking information and confirmation of delivery (e.g., certified mail return receipt requested, or commercial delivery service with tracking). The mortgage banker must capture and maintain records evidencing the payment, including a copy of the payment instrument, any correspondence accompanying the payment, tracking information, and delivery confirmation;

(2) Corporate Check. The refund may be made by issuing a check to the mortgage applicant or borrower. The check must be drawn on a bank account owned by the mortgage banker. The check must be sent to the mortgage applicant or borrower at his or her last known address. The mortgage banker must use reasonable diligence to determine the last known address of the mortgage applicant or borrower. The mortgage banker must capture and maintain records evidencing the payment, including a copy of the check, any correspondence accompanying the check, and evidence that the check was successfully negotiated (i.e., cancelled check). If the mortgage applicant or borrower fails to cash the check, the mortgage banker must comply with requirements of §57.304 of this title (relating to Unclaimed Funds);

(3) Wire Transfer or ACH. The refund may be made by wire transfer or automated clearing house (ACH) payment to the mortgage applicant's or borrower's verified bank account. The mortgage banker must capture and maintain records evidencing the payment, including any transaction receipt, confirmation page, or similar, reflecting:

(A) name of the sender and any relevant contact information;

(B) sender's bank information (institution, routing number, and account number);

(C) name of the recipient and any relevant contact information;

(D) recipient's bank information (routing number and account number); and

(E) the transaction reference number or confirmation code; or

(4) Credit Against Indebtedness. If the mortgage banker is the lender or holds the mortgage servicing rights to the residential mortgage loan related to the refund, the mortgage banker may issue a credit against the indebtedness equal to the refund; however, if the refund is related to an improper charge or proceeds improperly held by the mortgage banker on which interest was charged, the credit must be applied to the unpaid principal balance as of the date of such improper charge or the date the mortgage banker began improperly holding the proceeds. The mortgage banker must capture and maintain records evidencing application of the credit, including the payment history reflecting application of the credit and any subsequent adjustments to principal and interest payments as a result of the credit being applied.

§57.304. Unclaimed Funds.

(a) Escheat Suspense Account; Escheat Log. Funds owed to or held for the benefit of a mortgage applicant, borrower, or other customer of the mortgage banker for more than one year (i.e., unclaimed funds) must be transferred to an escheat suspense account. The mortgage banker must maintain a log of all transfers made to the escheat suspense account, including, at a minimum:

(1) date of transfer to the escheat suspense account;

(2) date the obligation to pay the funds arose;

(3) full name and last known contact information of the mortgage applicant, borrower, or other customer to whom funds are owed; and

(4) amount of unclaimed funds.

(b) Required Records. The mortgage banker must maintain records reflecting bona fide attempts to pay the funds to the mortgage applicant, borrower, or customer.

(c) Escheat to State. At the end of three years, the unclaimed funds must be paid to the Texas Comptroller of Public Accounts as provided by Property Code §72.101, or as provided by such other state law governing the unclaimed funds.

(d) Records Retention. Records required by this section must be retained for 10 years beginning on the date the obligation to pay the unclaimed funds arose.

§57.310. Appeals.

(a) Purpose. Finance Code Chapter 157 provides that certain decisions of the Commissioner adverse to the mortgage banker or other person may be appealed and offers the opportunity for an adjudicative hearing to challenge the decision. This section establishes various deadlines by which a mortgage banker or other person must appeal the decision before it becomes final and non-appealable.

(b) The following appeal deadlines apply:

(1) Registration Denials. A registration denial under Finance Code §157.003(e) must be appealed within 10 days after the date notice of the Commissioner's decision is received by the person seeking the registration.

(2) Notice of Revocation. A notice of revocation issued under Finance Code §157.009 must be appealed within 30 days after the date the notice is issued.

(3) Other Deadlines. Any appeal not otherwise addressed by this section must be made within 30 days after the date notice or order is issued.

(c) Requests for Appeal. An appeal must be made in writing and received by SML on or before the appeal deadline. An appeal may be sent by mail (Attn: Legal Division, 2601 N. Lamar Blvd., Suite 201, Austin, Texas 78705) or by email (enforcement@sml.texas.gov).

(d) Effect of Not Appealing. A mortgage banker or other person that does not timely appeal the Commissioner's decision is deemed to have irrevocably waived any right it had to challenge the decision or request an adjudicative hearing on the decision and is deemed not to have exhausted all administrative remedies available to it for purposes of judicial review of the Commissioner's decision under Government Code §2001.171. The failure to appeal an order of the Commissioner results in the order becoming final and non-appealable. The failure to appeal a notice of the Commissioner's decision means the Commissioner can issue a final, non-appealable order at any time without further notice or opportunity for a hearing to the mortgage banker or other person.

§57.311. Hearings.

Adjudicative hearings conducted under Finance Code Chapter 157 are governed by the rules in Chapter 9 of this title (concerning Rules of Procedure for Contested Hearings, Appeals, and Rulemakings). Contested cases referred to the State Office of Administrative Hearings (SOAH) are also governed by SOAH's rules in 1 TAC Chapter 155 (concerning Rules of Procedure). All hearings will be held in Austin, Texas. Any appeal for judicial review under Government Code §2001.171 must be brought in a district court in Travis County, Texas.

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 26, 2024.

TRD-202403939
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 58. RESIDENTIAL MORTGAGE LOAN SERVICERS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes new rules in 7 TAC Chapter 58: §§58.1 - 58.5, 58.100 - 58.104, 58.106, 58.107, 58.200, 58.207, 58.210, 58.301 - 58.304, 58.310 and 58.311 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 79, Residential Mortgage Loan Servicers, affect residential mortgage loan servicers (mortgage servicers) registered with SML under Finance Code Chapter 158, Residential Mortgage Loan Servicers.

Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Servicer Rules from Chapter 79 to Chapter 58

SML has determined it should reorganize its rules concerning mortgage servicers by relocating the rules to Chapter 58 (a vacant chapter). The proposed rules, if adopted, would effectuate this change.

Changes Concerning General Provisions (Subchapter A)

The proposed rules: in §58.2, Definitions, adopt new definitions for "control person," "dwelling," "E-Sign Act," "mortgage servicer," "mortgage servicer rights," "residential mortgage loan," "residential real estate," "SML," and "UETA," while eliminating definitions for "Commissioner's designee," "Department," and "the Act"; in §58.3, Formatting Requirements for Notices, adopt formatting requirements for the various disclosures a mortgage servicer is required to make; in §58.4, Electronic Delivery and Signature of Notices, clarify that any notice or disclosure made by a mortgage servicer may be delivered and signed electronically; and, in §58.5, Computation of Time, clarify how time periods measured in calendar days are computed.

Changes Concerning Registration (Subchapter B)

The proposed rules: in §58.100, Registration Requirements, clarify when a mortgage servicer registration is required (including as it relates to master servicers); in §58.102, Fees, clarify that the registration fee charged by SML is exclusive of fees charged by the Nationwide Multistate Licensing System (NMLS); in §58.103, Renewal of Registration, clarify that a registration approved with a pending deficiency requires the mortgage servicer to resolve the deficiency within 30 days after the date the registration is approved, and clarify that, if registration is not renewed prior to its expiration, the person must apply for a new registration; in §55.104, NMLS Records; Notices Sent to the Mortgage Servicer, establish requirements for the mortgage servicer to update its registration records in NMLS and establish requirements concerning how SML will contact the mortgage servicer using such records; in §58.106, Surrender of the Registration, clarify circumstances under which SML may not a request made a mortgage servicer to surrender its registration; and, in §58.107, Surety Bond Requirement, establish a requirement to use an electronic surety bond, and establishing requirements governing the required amount of the surety bond;.

Changes Concerning Reportable Incidents (§58.210)

The mortgage industry in recent years, like many other industries, has experienced increasing operational risks to cybersecurity posed by threat actors, including third-party service providers subject to such risks. SML has found that, in many instances, regulated persons do not self-report incidents that pose a threat to operations, and SML only learns of the incident through consumer complaints filed with SML, or through media reports, leaving SML in a poor position to mount a regulatory response. The proposed rules in §58.210, Reportable Incidents, establish requirements for a mortgage servicer to report certain information to SML when the mortgage servicer experiences a "security event" or a "catastrophic event." A "security event" is defined by the rule to mean "an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form." A "catastrophic event" is defined by the rule to mean "an event, other than a security event, that is unforeseen and results in extraordinary levels of damage or disruption to operations." For an event to be reportable under the rule, it must present "a material risk, financial or otherwise, to a mortgage servicer's operations or its customers." SML asserts such information is necessary to facilitate SML's inspection authority described in Finance Code §158.102. Under federal law, pursuant to the Federal Trade Commission's (FTC) Standards for Safeguarding Customer Information rules (16 C.F.R. §314.1, et seq.), a mortgage servicer must "develop, implement, and maintain a comprehensive information security program" to safeguard customer information (16 C.F.R. §314.3(a)), and must, among other things: conduct periodic risk assessments of the information system; design and implement safeguards to control risks to the integrity of the information system (including data encryp-

tion and controlling access); regularly test or monitor the effectiveness of the safeguards; implement policies and procedures and internal controls to ensure personnel can execute the information security program; oversee service providers to ensure compliance with the information security program; continuously evaluate and adjust the information security program; establish a written incident response plan designed to promptly respond to, and recover from, any security event materially affecting the confidentiality, integrity, or availability of customer information; and, in the event of a breach involving the information of 500 or more consumers, report certain information to the FTC concerning the nature and extent of the breach. Meanwhile, pursuant to Business and Commerce Code §521.052, a mortgage servicer "shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business." Pursuant to Business and Commerce Code §521.053(i), for a breach involving the information of 250 or more Texas consumers, a mortgage servicer must report certain information to the attorney general. Considering the foregoing, the existing requirements of state and federal law already require a mortgage servicer to maintain the information required to be reported to SML under proposed §58.210 in the event of a security event. Moreover, a report made to the FTC or to the attorney general described above generally satisfies the requirements of the rule, other than the requirement to provide a "root cause analysis" concerning the "results or findings of an audit or investigation to determine the origin or root cause of security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event"; however, SML asserts that a root cause analysis is subsumed under the existing requirements of state and federal law related to security events, as described above, in order to meaningfully comply with such requirements.

Other Changes Concerning Duties and Responsibilities (Subchapter C)

The proposed rules: in §55.200, Required Disclosures, remove the requirement that the disclosure to consumers required by Finance Code §158.101 be included on all correspondence sent to the borrower, and instead, establish a requirement to make the disclosure on the first notice sent to the borrower that notifies the borrower of the mortgage servicer's role in servicing the loan; and establish a requirement to include the disclosure on the mortgage servicer's website; and in §58.207, Periodic Statements, establish a requirement that the mortgage servicer comply with the requirements of federal law under Regulation Z (12 C.F.R. §1026.41), governing periodic statements sent to the borrower.

Changes Concerning Supervision and Enforcement (Subchapter D)

The proposed rules: in §58.302, Confidentiality of Investigation Information, clarify the confidentiality of information arising from an investigation by SML; in §58.303, Corrective Action, clarify when SML may direct a mortgage servicer to take corrective action, and creating requirements for refunds made to consumers; in §58.304, Unclaimed Funds, establish requirements concerning the mortgage servicer's handling of unclaimed funds of the consumer, including requiring the maintenance of a log to track the handling of such funds; and, in §58.310, Appeals, establish various deadlines by which a mortgage servicer or other person subject to an enforcement action must file an appeal.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to 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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing mortgage servicers to be easier to find by members of the public; and, to better protect members of the public who are consumers with a mortgage loan serviced by a mortgage servicer registered with SML.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs). However, SML includes in this proposal a note concerning certain potential costs other than direct costs (indirect costs). SML incorporates by reference the Changes Concerning Reportable Incidents (§58.210) section above as if fully set forth herein. The proposed rules related to Changes Concerning Reportable Incidents (§58.210) establish requirements for a mortgage servicer to report certain information when it experiences a security event or a catastrophic event that materially affects its operations, and may have some attendant costs; however, as stated above, the information required to be reported is already generated by the mortgage servicer in complying with other state and federal law or in the ordinary course of doing business. As a result, these indirect costs are insignificant.

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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning General Provisions (Subchapter A), Changes Concerning Registration (Subchapter B), Changes Concerning Reportable Incidents (§58.210), and Other Changes Concerning Duties and Responsibilities (Subchapter C) establish various rule requirements as discussed in such sections; (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Other Changes Concerning Duties and Responsibilities (Subchapter C) have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§58.1 - 58.5

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§58.1. Purpose and Applicability.

This chapter governs SML's administration and enforcement of Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act, concerning the registration and operations of residential mortgage loan servicers. This chapter applies to persons registered with SML as a residential mortgage loan servicer or those required to be registered.

§58.2. Definitions.

For purposes of this chapter, and in SML's administration and enforcement of Finance Code Chapter 158, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Commissioner" means the savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(2) "Control person" means an individual that directly or indirectly exercises control over a mortgage servicer. Control is defined by the power, directly or indirectly, to direct the management or policies of a mortgage servicer, whether through ownership of securities, by contract, or otherwise. Control person includes any person that:

(A) is a director, general partner or executive officer;

(B) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities;

(C) in the case of a limited liability company, is a manager or managing member; or

(D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the partnership's capital assets.

(3) "Dwelling" means a residential structure that contains one to four units and is attached to residential real estate. The term includes an individual condominium unit, cooperative unit, or a manufactured home, if it is used as a residence.

(4) "E-Sign Act" refers to the federal Electronic Signature in Global and National Commerce Act (15 U.S.C. §7001 et seq.).

(5) "Mortgage servicer" has the meaning assigned by Finance Code §158.002 in defining "residential mortgage loan servicer."

(6) "Mortgage servicing rights" means the contractual obligation to service a mortgage loan and the right to receive compensation for such services in accordance with the contract.

(7) "Nationwide Multistate Licensing System" or "NMLS" has the meaning assigned by Finance Code §180.002 in defining "Nationwide Mortgage Licensing System and Registry."

(8) "Person" has the meaning assigned by Finance Code §158.002.

(9) "Residential mortgage loan" has the meaning assigned by Finance Code §158.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling but used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as a residence.

(10) "Residential real estate" has the meaning assigned by Finance Code §158.002 and includes improved or unimproved real estate or any portion of or interest in such real estate on which a dwelling is or will be constructed or situated.

(11) "SML" means the Department of Savings and Mortgage Lending.

(12) "UETA" refers to the Texas Uniform Electronic Transactions Act, Business & Commerce Code Chapter 322.

§58.3. Formatting Requirements for Notices.

Any notice or disclosure (notice) required by Finance Code Chapter 158, or this chapter, must be easily readable. A notice is deemed to be easily readable if it is in at least 12-point font and uses a typeface specified by this section. A font point generally equates to 1/72 of an inch. If Finance Code Chapter 158, or this chapter, prescribes a form for the notice, the notice must closely follow the font types used in the form. For example, where the form uses bolded, underlined, or "all caps" font type, the notice must be made using those font types. The following typefaces are deemed to be easily readable for purposes of this section (this list is not exhaustive and other typefaces may be used; provided, the typeface is easily readable):

(1) Arial;

(2) Aptos;

(3) Calibri;

(4) Century Schoolbook;

(5) Garamond;

(6) Georgia;

(7) Lucinda Sans;

(8) Times New Roman;

(9) Trebuchet; and

(10) Verdana.

§58.4. Electronic Delivery and Signature of Notices.

Any notice or disclosure required by Finance Code Chapters 158, or this chapter, may be provided and signed in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The UETA and E-Sign Act include requirements for electronic signatures and delivery.

§58.5. Computation of Time.

The calculation of any time period measured in days by Finance Code Chapter 158, or this chapter, is made using calendar days, unless clearly stated otherwise. In computing a period of calendar days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.

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 26, 2024.

TRD-202403941
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. REGISTRATION

7 TAC §§58.100 - 58.104, 58.106, 58.107

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158. §58.100 is also proposed under the authority of, and to implement, Finance Code §158.051. §58.101 and §58.102 are also proposed under the authority of, and to implement, Finance Code: §158.053 and §158.058. §58.103 is also proposed under the authority of, and to implement, Finance Code §158.058. §58.104 is also proposed under the authority of, and to implement, Finance Code §158.054. §58.107 is also proposed under the authority of, and to implement, Finance Code §158.055.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§58.100. Registration Requirements.

(a) Registration Required. A person, unless exempt as provided by Finance Code §158.052, is required to be registered with SML as a mortgage servicer under Finance Code Chapter 158 if the person:

(1) acts as a mortgage servicer or engages in or conducts the business of a mortgage servicer, concerning a residential mortgage loan secured by residential real estate in Texas; or

(2) advertises or holds that person out to the public as engaging in or conducting the business of a mortgage servicer in Texas.

(b) Wrap Mortgage Servicing. A "wrap lender," as defined by Finance Code §158.001, that holds the mortgage servicing rights for a wrap mortgage loan must be registered under Finance Code Chapter 158 and comply with the requirements of Finance Code Chapter 159, Subchapter F and Chapter 58 of this title (relating to Wrap Mortgage Loans).

(c) Master Servicers and Subservicers. With respect to a residential mortgage loan for which the mortgage servicing rights are held by a person who is not the owner of the note (a/k/a "master servicer"), the holder of the mortgage servicing rights must be registered under Finance Code Chapter 158 even if that person does not actually receive any payments from the borrower but, instead, contracts with another person to service the loan (a/k/a "subservicer").

§58.101. Applications for Registration.

(a) NMLS. Applications for registration must be submitted through NMLS and must be made using the current form prescribed by NMLS. SML has published application checklists on the NMLS Resource Center website (nationwidelicensingsystem.org; viewable on the "State Licensing Requirements" webpage) which outline the requirements to submit an application. Applicants must comply with requirements in the checklist in making the application.

(b) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation deemed necessary or appropriate to determine that the registration requirements of Finance Code Chapter 158 are met.

(c) Incomplete Filings; Deemed Withdrawal. An application is complete only if all required information and supporting documentation is included and all required fees are received. If an application is incomplete, SML will send written notice to the applicant specifying the additional information, documentation, or fee required to render the application complete. The application may be deemed withdrawn and any fee paid will be forfeited if the applicant fails to provide the additional information, documentation, or fee within 30 days after the date written notice is sent to the applicant as provided by this subsection.

§58.102. Fees.

(a) Registration Fees. The registration fee is determined by the Commissioner in an amount not to exceed the maximum amount specified by Finance Code §158.053(b), exclusive of fees charged by

NMLS, as described in subsection (b) of this section. The Commissioner may establish different fee amounts for a new registration versus renewal of the registration. The current fee is set in NMLS and posted on SML's website (sml.texas.gov). The Commissioner may change the fee at any time; provided, any fee increase is not effective until notice has been posted on SML's website for at least 30 days. The registration fee must be paid in NMLS.

(b) NMLS Fees. NMLS charges a separate fee to process the application. Such fee is determined by NMLS and must be paid by the applicant at the time it files the application. The current fee is set in NMLS and posted on the NMLS website (nationwidelicensingsystem.org).

(c) All fees are nonrefundable and nontransferable.

§58.103. Renewal of Registration.

(a) A registration may be renewed on:

(1) timely submission of a completed renewal application (renewal request) in NMLS together with payment of all required fees; and

(2) a determination by SML that the mortgage servicer continues to meet the minimum requirements for registration, including the requirements of Finance Code §158.058(c).

(b) Application of §58.101. A renewal request is an application subject to the requirements of §58.101 of this title (relating to Applications for Registration). A renewal request withdrawn under §58.101(c) of this title will be rejected in NMLS.

(c) Commissioner's Discretion to Approve with a Deficiency. The Commissioner may, in his or her sole discretion, approve a renewal request with one or more deficiencies the Commissioner deems to be relatively minor and allow the mortgage servicer to continue conducting regulated activities while the mortgage servicer works diligently to resolve the deficiencies. A renewal request approved by the Commissioner under this subsection will be assigned the NMLS registration status "Approved - Deficient." Approval under this subsection does not relieve the mortgage servicer of the obligation to resolve the deficiencies noted. A mortgage servicer approved under this subsection must resolve the deficiencies within 30 days after the date the registration is approved, unless an extension of time is granted by the Commissioner. Failure to timely resolve the deficiencies constitutes grounds for the Commissioner to suspend or revoke the registration.

(d) No Renewal After Expiration. If a mortgage servicer fails to make a renewal request during the annual renewal period (November 1 to December 31) while the registration is still active and before it expires, then the registration cannot be renewed. Instead, the person must apply for a new registration and comply with all current requirements and procedures governing issuance of a new registration.

§58.104. NMLS Records; Notices Sent to the Mortgage Servicer.

(a) NMLS Registration Status. SML is required to assign a status to the registration in NMLS. The registration status is displayed in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org). SML is limited to the registration status options available in NMLS. The NMLS Resource Center website (nationwidelicensingsystem.org) describes the available registration status options and their meaning.

(b) Amendments to NMLS Records Required. A mortgage servicer must amend its NMLS registration records (MU1 filing) within 10 days after the date of any material change affecting any aspect of the MU1 filing, including, but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to SML establishing the name change);

(2) the addition or elimination of an assumed name (also known as a trade name or "doing business as" name; which must be accompanied by a certificate of assumed business name or other documentation establishing or abandoning the assumed name);

(3) the contact information under "Identifying Information";

(4) the contact information listed under "Resident/Registered Agent";

(5) the contact information listed under "Contact Employee Information"; and

(6) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(c) Amendments to MU2 Associations Required. A mortgage servicer must cause the individuals who are required to register an association with the mortgage servicer (control persons) to make the proper filings in NMLS using the current form prescribed by NMLS (MU2 filing) and must ensure such associations are amended within 10 days after the date of any material change affecting such associations.

(d) Notices Sent to the Mortgage Servicer. Any correspondence, notification, alert, message, official notice or other written communication from SML will be sent to the mortgage servicer in accordance with this subsection using the mortgage servicer's current contact information of record in NMLS unless another method is required by other applicable law.

(1) Service by Email. Service by email is made using the email address the mortgage servicer has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by email is complete on transmission of the email to mortgage servicer's email service provider; provided, SML does not receive a "bounce back" notification, or similar, from the email service provider indicating that delivery was not effective. A mortgage servicer must monitor such email account and ensure that emails sent by SML are not lost in a "spam" or similar folder, or undelivered due to intervention by a "spam filter" or similar service. A mortgage servicer is deemed to have constructive notice of any emails sent by SML to the email address described by this paragraph. A mortgage servicer is further deemed to have constructive notice of any NMLS system notifications sent to it by email.

(2) Service by Mail. Service by mail is made using the address the mortgage servicer has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by mail is made using the address the mortgage servicer has designated in its MU1 filing under "Contact Employee Information" for the contact designated as the "Primary Company Contact." Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the mortgage servicer by mail and the document communicates a deadline by or a time during which the mortgage servicer must perform some act, such deadline or time period for action is extended by 3 days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

§58.106. Surrender of the Registration.

(a) Surrender Request. A mortgage servicer may seek surrender of the registration by filing a surrender request (request) in NMLS. The filing must be made using the current form prescribed by NMLS. SML will review the request and determine whether to grant it. SML may not grant the request if, among other reasons:

(1) the mortgage servicer is the subject of a pending or contemplated investigation or enforcement action;

(2) the mortgage servicer is in violation of an order of the Commissioner; or

(3) the mortgage servicer has failed to pay any fee, charge, or other indebtedness owed to SML.

(b) Inactive Status Pending Surrender. If SML does not grant the request or requires additional time to consider the request, the request will be left pending while the issue preventing SML from granting the request is resolved or lapses. During this time, the mortgage servicer's registration will be assigned the registration status "Approved - Inactive" in NMLS.

§58.107. Surety Bond Requirement.

(a) Purpose and Applicability. This section clarifies and establishes requirements related to the surety bond certain mortgage servicers are required to have under Finance Code §158.055. This section does not apply to a mortgage servicer excepted from the surety bond requirement under Finance Code §158.055(h).

(b) NMLS Electronic Surety Bond Required. The surety bond must be submitted electronically through NMLS and must be made using the current form prescribed by NMLS. The NMLS Resource Center website (nationwidelicensingsystem.org) explains how to file the electronic surety bond in NMLS.

(c) Required Parties. The surety bond must be payable to the Commissioner as the sole payee. The name of the principal insured on the bond must match exactly the name filed with the Texas Secretary of State, if applicable.

(d) Authorized Surety Provider. The surety bond must be issued by a surety company authorized to transact business in Texas and comply with the applicable requirements of the Insurance Code.

(e) Minimum Bond Amount. Except as provided by paragraph (4) of this subsection, the minimum amount for the surety bond is determined based on the mortgage servicer's volume of loans serviced in Texas. The loan volume is calculated by adding the total unpaid principal balance of all residential mortgage loans serviced by the mortgage servicer secured by real property located in Texas as of October 31 of the year preceding the calendar year of the mortgage servicer's registration. The minimum amount for the surety bond is:

(1) New Applicants for Registration. If the applicant has never been registered with SML as a mortgage servicer or was not registered within the 12 months preceding the date of application, the minimum amount for the surety bond is $25,000. If the mortgage servicer was registered with SML within the 2 years preceding the date of application, the minimum amount for the surety bond is determined based on the mortgage servicer's loan volume on the day the mortgage servicer's registration lapsed.

(2) Volume less than or equal to $25,000,000. If the mortgage servicer's volume of loans is less than or equal to $25,000,000, the minimum amount for the surety bond is $25,000.

(3) Volume greater than $25,000,000. If the mortgage servicer's volume of loans is greater than $25,000,000, the minimum amount for the surety bond is $50,000.

(4) Servicers of Unimproved Real Property or Foreclosed Properties. Paragraphs (2) and (3) of this subsection notwithstanding, and as provided by Finance Code §158.055(c), if a mortgage servicer services only residential mortgage loans secured by unimproved real property or services only residential mortgage loans secured by foreclosed properties with a dwelling, or both, the minimum amount for the surety bond is $25,000, regardless of the cumulative value of sales of property by the mortgage servicer.

(f) Duty to Maintain and Update Surety Bond. The surety bond must remain active for as long as the mortgage servicer's registration is active. The mortgage servicer must recalculate the minimum amount for the surety bond before requesting renewal of the registration during the annual renewal period (November 1 to December 31). If the mortgage servicer is required to increase the amount of the surety bond as provided by this section, the new surety bond reflecting the higher surety bond amount must be active before the registration will be renewed.

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 26, 2024.

TRD-202403942
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§58.200, 58.207, 58.210

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158. §58.200 is also proposed under the authority of Finance Code §158.101.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§58.200. Required Disclosures.

(a) Purpose. This section clarifies and establishes requirements related to the disclosure a mortgage servicer is required to make under Finance Code §158.101.

(b) Specific Notice to Borrower. A mortgage servicer must send written notice to the borrower concerning SML's regulatory oversight within 30 days after the date it begins servicing a residential mortgage loan. The notice must be in the current form prescribed by SML and posted on its website (sml.texas.gov). The notice must be included in the first notice sent to the borrower that notifies the borrower of the mortgage servicer's role in servicing the loan, including any notice required by Regulation X (12 C.F.R. §1024.33(b)). This subsection applies to the servicing of residential mortgage loans secured by real property located in Texas. Mortgage servicers servicing a residential mortgage loan not secured by real property located in Texas must not provide the notice described by this section.

(c) Posted Notice on Websites. A mortgage servicer must post the notice required by subsection (b) of this section on each website of the mortgage servicer, other than a social media site, that is accessible by a borrower. The notice must be displayed on the initial or home page of the website (typically the base-level domain name) or contained in a linked page with the link to such page displayed on the initial or home page.

(d) Disclosures in Correspondence. All correspondence sent to the borrower must include:

(1) the mortgage servicer's name and NMLS ID; and

(2) the mortgage servicer's website address, if it has as website.

§58.207. Periodic Statements.

A mortgage servicer that services a loan secured by a dwelling must comply with the requirements of Section 1026.41 of Regulation Z (12 C.F.R. §1026.41), governing the issuance, content, form, and layout of periodic statements sent to the borrower.

§58.210. Reportable Incidents.

(a) Definitions. For purposes of this section, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Catastrophic event" means an event, other than a security event, that is unforeseen and results in extraordinary levels of damage or disruption to operations (e.g., the destruction of a principal office or data center).

(2) "Reportable incident" means an incident or situation that presents a material risk, financial or otherwise, to a mortgage servicer's operations or its customers. A reportable incident includes the following items, provided, it presents a material risk:

(A) a "catastrophic event" as defined by this subsection;

(B) a "security event" as defined by this subsection;

(C) the termination or curtailment of a line of credit or funding source; or

(D) the termination or curtailment of a service provided to the mortgage servicer by a third-party service provider.

(3) "Root cause analysis report" means a written report concerning the results or findings of an audit or investigation to determine the origin or root cause of a security event, identify strategic measures to effectively contain and limit the impact of a security event, and to prevent a future security event.

(4) "Security event" means an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form. It includes information that is encrypted, if the person with unauthorized access to the information can decrypt the data.

(b) Incident Report. Except as provided by subsection (c) of this section, a mortgage servicer must submit a written report to SML concerning any reportable incident within 30 days after the date the mortgage servicer becomes aware of the reportable incident. The report must include:

(1) a detailed description of the nature and circumstances of the reportable incident;

(2) the number of Texas residents affected or potentially affected by the reportable incident;

(3) the measures taken by the mortgage servicer to resolve or address the reportable incident;

(4) the measures the mortgage servicer plans to take to resolve or address the reportable incident; and

(5) the point of contact designated by the mortgage servicer for inquires by SML about the reportable incident.

(c) Incidents Reported to Other Agencies. A mortgage servicer must provide SML with a copy of the following notifications sent to other agencies at the time it makes the notification. Except as provided by subsection (d) of this section, a notification provided to SML under this subsection satisfies the requirement to file a report under subsection (b) of this section:

(1) the notification to the Federal Trade Commission (FTC) required by Section 314.4(j) of the FTC's Standards for Safeguarding Customer Information rules (16 C.F.R. §314.4(j)); and

(2) the notification to the Office of the Attorney General of Texas required by Business and Commerce Code §521.053(i).

(d) Root Cause Analysis for Security Events. For any security event triggering a notification described by subsection (c) of this section, the mortgage servicer must provide SML with a root cause analysis report within 120 days after the date the mortgage servicer becomes aware that the security event occurred.

(e) Supplemental Information. SML may require additional, clarifying, or supplemental information or documentation related to a reportable incident as SML deems necessary or appropriate.

(f) Confidentiality. Information reported under subsection (b) or (d) of this section is deemed to be confidential information obtained by SML during an examination, investigation, or inspection, as provided by Finance Code §158.102 and §58.302 of this title (relating to Confidentiality of Investigation Information).

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 26, 2024.

TRD-202403943
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535



SUBCHAPTER D. SUPERVISION AND ENFORCEMENT

7 TAC §§58.301 - 58.304, 58.310, 58.311

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158. §§58.301 - 58.304 are also proposed under the authority of, and to implement, Finance Code §158.102 and §158.106. §58.310 is also proposed under the authority of, and to implement, Finance Code: §§158.058 - 158.060, 158.103, 158.105, and 158.106.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§58.301. Investigations.

(a) Purpose. This section clarifies and establishes requirements related to investigations of a mortgage servicer conducted by SML under Finance Code §158.102.

(b) Reasonable Cause. SML will conduct an investigation if it has reasonable cause to do so. Reasonable cause is deemed to exist if SML receives or discovers information from a source SML has

no reason to believe is other than credible indicating that a violation of law more likely than not occurred that is within SML's authority to take action to address. The absence of reasonable cause to initiate an investigation does not constitute grounds to challenge and does not invalidate an action taken by SML to address a violation found during the course of an investigation.

(c) Investigation Methods. Investigations will be conducted as SML deems appropriate based on the relevant facts and circumstances then known. Such investigation may include:

(1) review of documentary evidence;

(2) interviews with complainants, respondents, and third parties, and the taking of sworn written statements;

(3) obtaining information from other state or federal agencies, regulatory authorities, or self-regulatory organizations;

(4) requiring complainants or respondents to provide explanatory, clarifying, or supplemental information; and

(5) other lawful investigative methods as SML deems necessary or appropriate.

(d) Investigation Fee. The Commissioner may collect a fee for conducting an investigation on a mortgage servicer. The amount of the fee is determined by the Commissioner not to exceed $975 per complaint. The investigation fee, if any, is assessed at the time SML closes the complaint. The investigation fee, if any, will be invoiced in NMLS and must be paid in NMLS.

§58.302. Confidentiality of Investigation Information.

(a) Purpose. This section clarifies and establishes requirements related to the confidentiality of information obtained by SML during an investigation, as provided by Finance Code §158.102.

(b) Confidential Information. All information obtained by SML during an investigation is confidential and cannot be released except as required or expressly permitted by law. The Finance Commission of Texas and the Commissioner have determined that the following information is confidential under Finance Code §158.102 (list is not exhaustive):

(1) any documents, data, data compilations, work papers, notes, memoranda, summaries, recordings, or other information, in whatever form or medium, obtained, compiled, or generated during an investigation;

(2) information that is derived from or is the product of the confidential information described by paragraph (1) of this subsection, including any reports or other information chronicling or summarizing the results, conclusions, or other findings of an investigation, including assertions of an actual or apparent violation of law or any directives, mandates, or recommendations for action by the mortgage servicer to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the investigation; and

(3) information that is derived from or is the product of the confidential information described by paragraphs (1) and (2) of this subsection, including any communications, documentary evidence, or other information concerning the mortgage servicer's compliance with any directives, mandates, or recommendations for action by the mortgage servicer and any corrective or remedial action taken by the mortgage servicer to address, correct, or remediate the violations, deficiencies, issues, or other findings identified during the investigation.

(c) Loss of Confidentiality. Subsection (b) of this section notwithstanding, information described by that subsection is not confidential to the extent the information becomes publicly available in a disciplinary or enforcement action that is a contested case (i.e., information made part of the administrative record during an adjudicative hearing that is open to the public).

§58.303. Corrective Action.

(a) Corrective Action, Generally; Purpose. During an investigation, SML may determine that violations, deficiencies, or compliance issues (collectively, violations) occurred. Within the confidential environment of the investigation, SML may direct the mortgage servicer to voluntarily take corrective action to address the violations identified during the investigation. This section clarifies and establishes requirements related to such corrective action.

(b) Internal Reviews. If SML determines during an investigation that a violation may be systemic, SML may direct the mortgage servicer to conduct its own internal review to self-identify any other violations, compile information concerning such violations, and report its findings to SML. SML may direct the mortgage servicer to take corrective action for any violations identified during the review.

(c) Policies and Procedures and Internal Controls. SML may direct the mortgage servicer to develop and adopt policies and procedures and institutional controls designed to prevent or mitigate future violations.

(d) Refunds to Consumers. SML may direct the mortgage servicer to make refunds to consumers affected by the violation. Any refund must comply with this subsection. The Commissioner, in his or her sole discretion, may waive or modify the requirements of this subsection to achieve appropriate, practical, and workable results. A refund must be made by one of the following methods:

(1) Certified Funds. The refund may be made by certified funds (cashier's check or money order) sent to the borrower at his or her last known address. The mortgage servicer must use reasonable diligence to determine the last known address of the borrower. The payment must be sent in a manner that includes tracking information and confirmation of delivery (e.g., certified mail return receipt requested, or commercial delivery service with tracking). The mortgage servicer must capture and maintain records evidencing the payment, including a copy of the payment instrument, any correspondence accompanying the payment, tracking information, and delivery confirmation;

(2) Corporate Check. The refund may be made by issuing a check to the borrower. The check must be drawn on a bank account owned by the mortgage servicer. The check must be sent to the borrower at his or her last known address. The mortgage servicer must use reasonable diligence to determine the last known address of the borrower. The mortgage servicer must capture and maintain records evidencing the payment, including a copy of the check, any correspondence accompanying the check, and evidence that the check was successfully negotiated (i.e., cancelled check). If the borrower fails to cash the check, the mortgage servicer must comply with requirements of §58.304 of this title (relating to Unclaimed Funds);

(3) Wire Transfer or ACH. The refund may be made by wire transfer or automated clearing house (ACH) payment to the borrower's verified bank account. The mortgage servicer must capture and maintain records evidencing the payment, including any transaction receipt, confirmation page, or similar, reflecting:

(A) name of the sender and any relevant contact information;

(B) sender's bank information (institution, routing number, and account number);

(C) name of the recipient and any relevant contact information;

(D) recipient's bank information (routing number and account number); and

(E) the transaction reference number or confirmation code; or

(4) Credit Against Indebtedness. If, at the time of the refund, the mortgage servicer holds the mortgage servicing rights to the residential mortgage loan related to the refund, the mortgage servicer may issue a credit against the indebtedness equal to the refund; however, if the refund is related to an improper charge or proceeds improperly held by the mortgage servicer on which interest was charged, the credit must be applied to the unpaid principal balance as of the date of such improper charge or the date the mortgage servicer began improperly holding the proceeds. The mortgage servicer must capture and maintain records evidencing application of the credit, including the payment history reflecting application of the credit and any subsequent adjustments to principal and interest payments as a result of the credit being applied.

§58.304. Unclaimed Funds.

(a) Escheat Suspense Account; Escheat Log. Funds owed to or held for the benefit of a borrower or other customer of the mortgage servicer for more than one year (i.e., unclaimed funds) must be transferred to an escheat suspense account. The mortgage servicer must maintain a log of all transfers made to the escheat suspense account, including, at a minimum:

(1) date of transfer to the escheat suspense account;

(2) date the obligation to pay the funds arose;

(3) full name and last known contact information of the borrower other customer to whom funds are owed; and

(4) amount of unclaimed funds.

(b) Required Records. The mortgage servicer must maintain records reflecting bona fide attempts to pay the funds to the borrower or customer.

(c) Escheat to State. At the end of three years, the unclaimed funds must be paid to the Texas Comptroller of Public Accounts as provided by Property Code §72.101, or as provided by such other state law governing the unclaimed funds.

(d) Records Retention. Records required by this section must be retained for 10 years beginning on the date the obligation to pay the unclaimed funds arose.

§58.310. Appeals.

(a) Purpose. Finance Code Chapter 158 provides that certain decisions of the Commissioner adverse to a mortgage servicer or other person may be appealed and offers the opportunity for an adjudicative hearing to challenge the decision. This section establishes various deadlines by which a mortgage servicer or other person must appeal the decision before it becomes final and non-appealable.

(b) The following appeal deadlines apply:

(1) Registration Denials. A registration denial under Finance Code §158.058(c), or otherwise, must be appealed on or before 10 days after the date notice of the Commissioner's decision is received by the person seeking the registration.

(2) Order to Take Affirmative Action or Order to Cease and Desist. An order issued by the Commissioner under Finance Code §§158.103(a), 158.105(a), or 158.106 must be appealed within 30 days after the date the order is issued.

(3) Notice of Revocation. A notice of revocation issued under Finance Code §158.059 must be appealed on or before 30 days after the date the notice is issued.

(4) Other Deadlines. Any appeal not otherwise addressed by this section must be made on or before 30 days after the date notice or order is issued.

(c) Requests for Appeal. An appeal must be made in writing and received by SML on or before the appeal deadline. An appeal may be sent by mail (Attn: Legal Division, 2601 N. Lamar Blvd., Suite 201, Austin, Texas 78705) or by email (enforcement@sml.texas.gov).

(d) Effect of Not Appealing. A mortgage servicer or other person that does not timely appeal the Commissioner's decision is deemed to have irrevocably waived any right it had to challenge the decision or request an adjudicative hearing on the decision and is deemed not to have exhausted all administrative remedies available to it for purposes of judicial review of the Commissioner's decision under Government Code §2001.171. The failure to appeal an order of the Commissioner results in the order becoming final and non-appealable. The failure to appeal a notice of the Commissioner's decision means the Commissioner can issue a final, non-appealable order at any time without further notice or opportunity for a hearing to the mortgage servicer or other person.

§58.311. Hearings.

Adjudicative hearings conducted under Finance Code Chapter 158 are governed by the rules in Chapter 9 of this title (concerning Rules of Procedure for Contested Hearings, Appeals, and Rulemakings). Contested cases referred to the State Office of Administrative Hearings (SOAH) are also governed by SOAH's rules in 1 TAC Chapter 155 (concerning Rules of Procedure). All hearings are held in Austin, Texas. Any appeal for judicial review under Government Code §2001.171 must be brought in a district court in Travis County, Texas.

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 26, 2024.

TRD-202403945
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 59. WRAP MORTGAGE LOANS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes new rules in 7 TAC Chapter 59: §§59.1 - 59.5, 59.100 - 59.102, 59.200, 59.201, 59.300 - 59.303, 59.400 - 59.403 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 78, Wrap Mortgage Loans, affect wrap mortgage lenders, borrowers, and any person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan, including servicers of a wrap mortgage loan under Finance Code Chapter 159, Wrap Mortgage Loan Financing.

Changes Concerning the Reorganization (Relocation) of Wrap Mortgage Loan Rules from Chapter 78 to Chapter 59

SML has determined it should reorganize its rules wrap mortgage loans by relocating the rules to Chapter 59, a vacant chapter. The proposed rules, if adopted, would effectuate this change.

Changes Concerning General Provisions (Subchapter A)

The proposed rules: in §59.2, Definitions, adopt a new definitions for "SML," while eliminating a definition for "Department"; in §59.3, Formatting Requirements for Notices, adopt formatting requirements for the various disclosures required under Finance Code Chapter 159; in §59.4, Electronic Delivery and Signature of Notices, clarify that any notice or disclosure made by an originator may be delivered and signed electronically; and, in §59.5, Computation of Time, clarify how time periods measured in calendar days are computed.

Other Modernization and Update Changes

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to 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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing wrap mortgage loans to be easier to find by members of the public.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do create a new regulation (rule requirement). The proposed rules related to Changes Concerning General Provisions (Subchapter A) establish various rule requirements as discussed in such section; (6) the proposed rules do not expand, limit, or repeal an existing regulation (rule requirement); (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§59.1 - 59.5

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§59.1. Purpose and Applicability.

This chapter governs the Commissioner's administration and enforcement of Finance Code Chapter 159, governing wrap mortgage loans concerning residential real estate located in Texas. This chapter applies to wrap mortgage lenders, borrowers, and any person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan, including servicers of a wrap mortgage loan.

§59.2. Definitions.

For purposes of this chapter, and in SML's administration and enforcement of Finance Code Chapter 159, the following definitions apply, unless the context clearly indicates otherwise:

(1) "Application" means a request, in any form, for an offer (or a response to a solicitation of an offer) of wrap mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, or the mortgage loan amount.

(2) "Attorney" has the meaning assigned by Insurance Code §2501.003.

(3) "Commissioner" means the savings and mortgage lending commissioner appointed under Finance Code Chapter 13.

(4) "E-Sign Act" refers to the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. §7001 et seq.).

(5) "Inspection" includes examination.

(6) "Legal holiday" means the federal legal public holidays specified in 5 U.S.C. §6103(a).

(7) "Make a wrap mortgage loan," means when a person determines the credit decision to provide the wrap mortgage loan, or the act of funding the wrap mortgage loan or transferring money to the wrap borrower. A person whose name appears on the loan documents as the payee of the note is considered to have "made" the wrap mortgage loan.

(8) "Nationwide Multistate Licensing System" or "NMLS" has the meaning assigned by Finance Code §180.002 in defining "Nationwide Mortgage Licensing System and Registry."

(9) "Residential mortgage loan" has the meaning assigned by Finance Code §159.001. The term does not include a loan secured by structure that is suitable for occupancy as a dwelling but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as a residence.

(10) "Residential mortgage loan originator" has the meaning assigned by Finance Code §180.002.

(11) "Residential mortgage loan servicer" has the meaning assigned by Finance Code §158.002.

(12) "Residential real estate" has the meaning assigned by Finance Code §159.001. For purposes of Finance Code §159.002(b)(1), the term does not include "unimproved residential estate," as that term is defined by Finance Code §159.002(a).

(13) "SML" means the Department of Savings and Mortgage Lending.

(14) "Superior lien" refers to any lien described by Finance Code §159.001(7)(A).

(15) "Superior lienholder" means the holder of any lien described by Finance Code §159.001(7)(A).

(16) "Third-party servicer" means a person other than the wrap lender acting as residential mortgage loan servicer for a wrap mortgage loan.

(17) "Title company" means a "title insurance company" as that term is defined by Insurance Code §2501.003.

(18) "UETA" refers to the Texas Uniform Electronic Transactions Act, Business & Commerce Code Chapter 322.

(19) "Wrap borrower" has the meaning assigned by Finance Code §159.001.

(20) "Wrap lender" has the meaning assigned by Finance Code §159.001.

(21) "Wrap lender registrant" means a wrap lender who is required to register as a residential mortgage loan servicer under Finance Code Chapter 158.

(22) "Wrap mortgage applicant" means an applicant for a wrap mortgage loan or a person who is solicited (or contacts a wrap lender in response to a solicitation) to obtain a wrap mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Mortgage Loan Application), but has submitted financial information constituting an application, as provided by paragraph (1) of this section.

(23) "Wrap mortgage loan" has the meaning assigned by Finance Code §159.001.

§59.3. Formatting Requirements for Notices.

Any notice or disclosure (notice) required by Finance Code Chapter 159, or this chapter, must be easily readable. A notice is deemed to be easily readable if it is in at least 12-point font and uses a typeface specified by this section. A font point generally equates to 1/72 of an inch. If Finance Code Chapter 159, or this chapter, prescribes a form for the notice, the notice must closely follow the font types used in the form. For example, where the form uses bolded, underlined, or "all caps" font type, the notice or disclosure must be made using those font types. The following typefaces are deemed to be easily readable for purposes of this section (list is not exhaustive and other typefaces may be used; provided, the typeface is easily readable):

(1) Arial;

(2) Aptos;

(3) Calibri;

(4) Century Schoolbook;

(5) Garamond;

(6) Georgia;

(7) Lucinda Sans;

(8) Times New Roman;

(9) Trebuchet; and

(10) Verdana.

§59.4. Electronic Delivery and Signature of Notices.

Any notice or disclosure required by Finance Code Chapter 156, or this chapter, may be provided and signed in accordance with state and federal law governing electronic signatures and delivery of electronic documents. The UETA and E-Sign Act include requirements for electronic signatures and delivery.

§59.5. Computation of Time.

The calculation of any time period measured in days by Finance Code Chapter 159, or this chapter, is made using calendar days, unless clearly stated otherwise. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday, unless clearly stated otherwise.

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 26, 2024.

TRD-202403946
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LENDER REQUIREMENTS AND RESPONSIBILITIES

7 TAC §§59.100 - 59.102

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159. §59.101 is also proposed under the authority of, and to implement, Finance Code: §159.101 and §159.102. §59.102 is also proposed under the authority of, and to implement, Finance Code §159.105.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§59.100. Purpose and Applicability.

The purpose of this subchapter is to clarify and establish requirements related to a wrap lender's requirements and responsibilities under a wrap mortgage loan, as provided by Finance Code Chapter 159, Subchapter C, and §159.105.

§59.101. Required Disclosure.

(a) Purpose. The purpose of this section is to clarify and establish requirements related to the written disclosure a wrap lender is required to provide the wrap borrower in accordance with Finance Code §159.101 (disclosure).

(b) Model Disclosure Form. In accordance with Finance Code §159.101(c), the following form (Figure: 7 TAC §59.101(b)(3); model disclosure form) is deemed to satisfy the substantive requirements of Finance Code §159.101(a). Interested persons should visit SML's website (sml.texas.gov) for a form-fillable version of the model disclosure form and an editable version in Word format (including for purposes of attaching additional sheets to supplement the form with additional information, as necessary). A wrap lender may modify and customize the model disclosure form; provided, the form:

(1) contains all substantive information contained in the model disclosure form that is applicable to the person issuing the disclosure;

(2) conforms to the formatting requirements of §59.3 of this title (relating to Formatting Requirements for Notices); and

(3) otherwise fulfills the requirements of Finance Code §159.101(a).

Figure: 7 TAC §59.101(b)(3)

(c) Effective Date. The disclosure is deemed to be provided by the wrap lender and received by the wrap borrower for purposes of Finance Code §159.101 on the date the disclosure is dated and signed by the wrap borrower, as provided by Finance Code §159.101(b).

(d) Foreign Language Requirement. The wrap borrower must be provided an English-language version of the disclosure in addition to and contemporaneously with the foreign-language version required by Finance Code §159.102, if applicable. A wrap lender may provide the English-language and foreign-language disclosure in a single, combined disclosure. A wrap borrower receiving a foreign-language version of the disclosure may, but is not required to, date and sign the foreign-language disclosure. A wrap borrower receiving a foreign-language version of the disclosure must date and sign the English-language version of the disclosure, which determines the effective date the disclosure is received by the wrap borrower, as provided by subsection (c) of this section. A Spanish-language version of the model disclosure form is available on SML's website (sml.texas.gov) and is deemed to satisfy the substantive requirements of Finance Code §159.101(a) and §159.102, with respect to negotiations with a wrap borrower conducted primarily in Spanish.

(e) Computation of Time. Computation of the time period for a wrap lender to provide the disclosure required by Finance Code §159.101(a) is made using calendar days, irrespective of any Saturdays, Sundays, or legal holidays.

§59.102. Closing Requirements.

(a) Purpose. The purpose of this section is to clarify and establish requirements related to the requirement that a wrap mortgage loan be closed by an attorney or title company, as provided by Finance Code §159.105.

(b) Closing by Title Company. For purposes of Finance Code §159.105, a wrap mortgage loan may only be closed by a title company issuing an owner's title insurance policy to the wrap borrower for the residential real estate secured or designed to be secured by the wrap mortgage 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.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403947
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. BORROWER'S RIGHTS AND RESPONSIBILITIES

7 TAC §59.200, §59.201

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code

Chapter 159. §59.201 is also proposed under the authority of, and to implement, Finance Code §159.202.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§59.200. Purpose and Applicability.

The purpose of this subchapter is to clarify and establish requirements related to a wrap borrower's rights under a wrap mortgage loan, as provided by Finance Code Chapter 159, Subchapter E.

§59.201. Right to Deduct; Notice of Deduction.

(a) Purpose. The purpose of this section is to clarify and establish requirements related to a wrap borrower's right to make deductions from the amounts the wrap borrower owes to the wrap lender under the terms of a wrap mortgage loan, as provided by Finance Code §159.202.

(b) Notice of Deduction. To the extent the wrap borrower seeks to exercise its right to deduct amounts owed to the wrap lender pursuant to Finance Code §159.202, the wrap borrower must, at the time the wrap borrower makes the deduction, provide the wrap lender or its third-party servicer notice of the amounts deducted including:

(1) an itemized list of the deductions made, describing in detail the amounts paid by the wrap borrower on behalf of the wrap lender;

(2) the dates on which such payments were made; and

(3) supporting documentation evidencing paragraphs (1) and (2) of this subsection.

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 26, 2024.

TRD-202403949
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. WRAP LENDER AND SERVICER REQUIREMENTS

7 TAC §§59.300 - 59.303

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159. §59.301 and §59.303 are also proposed under the authority of, and to implement, Finance Code §159.152. §59.302 is also proposed under the authority of, and to implement, Finance Code §159.151.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§59.300. Purpose and Applicability.

The purpose of this subchapter is to clarify and establish requirements applicable to persons who collect or receive a payment from a wrap borrower under the terms of a wrap mortgage loan, as provided by Finance Code Chapter 159, Subchapter D. The rules in this subchapter apply to a wrap lender or any other person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan, including a third-party servicer servicing a wrap mortgage loan.

§59.301. Fiduciary Duties; Required Accounting.

(a) Purpose. The purpose of this section is to clarify and establish requirements related to the fiduciary duties owed to a wrap borrower by a person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan, as provided by Finance Code §159.152.

(b) Non-Delegation of Duties. A wrap lender or other person collecting or receiving a payment from a wrap borrower under the terms of a wrap mortgage loan may not delegate or assign its fiduciary duties owed under Finance Code §159.152 to another person except as a result of the wrap lender selling, assigning, transferring, or conveying the wrap mortgage loan. Any sale, assignment, transfer, or conveyance by a wrap lender of a wrap mortgage loan is deemed to include an assignment of the fiduciary duties owed by the wrap lender to the wrap borrower under Finance Code §159.152. A sale, assignment, transfer, or conveyance by a wrap lender of a wrap mortgage loan does not extinguish the assigning wrap lender's fiduciary duties to the wrap borrower in connection with amounts collected or received by the wrap lender from the wrap borrower prior to the effective date of the sale, assignment, transfer, or conveyance of the wrap mortgage loan.

(c) Required Accounting. The wrap lender must, either directly, or through use of a third-party servicer it has contracted with, maintain, on a current basis, separate written accountings for each wrap mortgage loan made by the wrap lender sufficient to account for, track, and retrospectively trace all payments received from the wrap borrower under the terms of the wrap mortgage loan, and all disbursements, transfers, or assignments of such funds, including, but not limited to, disbursements made to a superior lienholder, taxing authority, or insurance company in connection with the residential real estate secured by the wrap mortgage loan. The accounting required by this subsection must be maintained by the wrap lender or its successor-in-interest until the limitations period for the wrap borrower to bring any cause of action against the wrap lender arising from a violation of law in connection with the wrap mortgage loan transaction has lapsed. To the extent the wrap lender uses the services of a third-party servicer, a wrap lender must establish and maintain policies and procedures that are reasonably designed to acquire from the third-party servicer any information or supporting documentation necessary or prudent to ensure the wrap lender satisfies the accounting required by this subsection. The accounting required by this subsection may be accomplished through administration of and the retention of records in connection with a trust account as provided by §59.302 of this title (relating to Trust Account; Maintenance of Funds Held in Trust).

§59.302. Trust Account; Maintenance of Funds Held in Trust.

(a) Purpose. The purpose of this section is to clarify and establish requirements related to the requirement of a person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan to hold such funds in trust, as provided by Finance Code §159.151.

(b) Definitions. The following terms in this section have the following meanings, unless the context clearly indicates otherwise:

(1) "Financial institution" has the meaning assigned by Finance Code §201.101(1).

(2) "Trust account" means a custodial, trust, or escrow account managed by one person for the benefit of another person.

(3) "Trust funds" means the funds collected or received from a wrap borrower under the terms of a wrap mortgage loan.

(4) "Receiver" means a wrap lender or other person collecting or receiving trust funds.

(c) Trust Account Required. Unless otherwise agreed to in writing by the wrap borrower and wrap lender in connection with the wrap mortgage loan, trust funds must be placed in a trust account meeting the requirements of this section, and maintained or disbursed in accordance with this section.

(d) Trust Account Requirements.

(1) The trust account must be clearly identified as such at the financial institution.

(2) The receiver may, but is not required to, maintain separate trust accounts for each wrap mortgage loan or wrap borrower. To the extent the receiver maintains separate trust accounts for each wrap mortgage loan or wrap borrower, the same trust account may also be used for purposes of administering an escrow account for the wrap mortgage loan or wrap borrower.

(3) Funds in the trust account must be capable of being disbursed by the receiver on-demand or in an amount of time sufficient to timely effect disbursements reasonably anticipated from the trust account.

(4) A receiver, in addition to depositing trust funds, may deposit and maintain a limited amount of money in the trust account necessary to avoid or cover potential fees imposed by the financial institution in connection with the trust account including account maintenance fees or fees charged for insufficient funds.

(e) A receiver may not:

(1) commingle trust funds with non-trust funds;

(2) deposit or maintain trust funds in a personal account or any form of business account; or

(3) pay operating expenses or otherwise make withdrawals or disbursements from a trust account for any purpose other than the proper disbursement of trust funds.

(f) Disbursement of Trust Funds.

(1) A receiver may only disburse money from a trust account in accordance with the terms of the wrap mortgage loan or such other agreement as may be entered into with the wrap borrower to govern the disbursement of trust funds.

(2) If a receiver is unable to reasonably determine to which party or parties trust funds should be disbursed, the receiver may tender trust funds into the registry of a court of competent jurisdiction and interplead the relevant party or parties.

§59.303. Use of a Third-Party Servicer.

(a) Purpose. The purpose of this section is to clarify and establish requirements concerning a wrap lender's use of a third party to act as a residential mortgage loan servicer of wrap mortgage loan.

(b) Use of a Third-Party Servicer. A wrap lender is authorized to use the services of a third party to act as the residential mortgage loan servicer of a wrap mortgage loan (also known as a "subservicer").

(c) Handling of Payments and Disbursements. To the extent a wrap lender uses the services of a third-party servicer, the handling of payments and disbursement of funds received by the third-party servicer is governed by the agreement between the wrap lender and third-party servicer, including:

(1) whether or not and on what terms the third-party servicer makes disbursements to the superior lienholder;

(2) disbursements made to the wrap lender; and

(3) how payments by the wrap borrower in excess of the current amount due under the terms of the wrap mortgage loan are handled, applied, or disbursed.

(d) No Limitation on Liability. As provided by Finance Code §159.107, any agreement between a wrap lender and a third-party servicer may not seek to waive or limit the wrap lender's or third-party servicer's liability to the wrap borrower arising from the fiduciary duties owed to the wrap borrower pursuant to Finance Code §159.152. However, an agreement between a wrap lender and third-party servicer may contain an indemnification agreement concerning potential liability arising from the fiduciary duties owed to the wrap borrower under Finance Code §159.152.

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 26, 2024.

TRD-202403950
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER E. SUPERVISION AND ENFORCEMENT

7 TAC §§59.400 - 59.403

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159. §§59.401 - 59.403 are also proposed under the authority of, and to implement, Finance Code §159.252.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§59.400. Purpose and Applicability.

The purpose of this subchapter is to clarify and establish requirements related to the Commissioner's authority to conduct inspections of, and investigations on, a wrap lender who is required to register as a residential mortgage loan servicer under Finance Code Chapter 158 (wrap mortgage registrant), as provided by Finance Code Chapter 159, Subchapter F. This subchapter further clarifies and establishes requirements concerning the Commissioner's authority to seek enforcement action against a wrap mortgage registrant under Finance Code Chapter 159, Subchapter G.

§59.401. Required Books and Records by a Wrap Lender Registrant.

(a) Purpose. This section clarifies and establishes requirements related to the wrap lender's requirement to maintain information and records necessary to facilitate the Commissioner's inspection of a wrap lender required to register as a residential mortgage loan servicer under Finance Code Chapter 158, as provided by Finance Code §159.252(d)(1). The requirements of this section are in addition to and supplement the requirements a wrap lender registrant or other person is required to maintain as a licensee or registrant under Finance Code Chapters 156, 157, 158, or 342, as applicable.

(b) Maintenance of Records, Generally. Each wrap lender registrant must maintain records with respect to each wrap mortgage loan under Finance Code Chapter 159 and make those records available for examination under Finance Code §159.252. The records required by this section may be maintained using a paper, manual, electronic, or digitally-imaged recordkeeping system, or a combination thereof, unless otherwise specified by other applicable law. The records must be accurate, complete, current, legible, and readily accessible and sortable. If the requirements of other applicable law governing recordkeeping by the wrap loan registrant differ from the requirements of this section, such other applicable law prevails only to extent this section conflicts with the requirements of this section.

(c) Required Records. A wrap lender registrant must maintain the following items:

(1) Wrap Mortgage Servicing Log. A wrap mortgage servicing log for each wrap mortgage loan serviced by a wrap lender registrant, maintained on a current basis (which means that all entries must be made within seven days from the date on which the matters they relate to occurred), setting forth, at a minimum:

(A) the loan or account number, or other unique identifier assigned by the wrap lender registrant to the wrap mortgage loan;

(B) the name and contact information of each wrap borrower; and

(C) the date the wrap mortgage loan was entered into by the wrap lender and wrap borrower.

(2) Wrap Borrower Index. The current alphabetical index or a report of outstanding wrap mortgage loans of the wrap lender registrant, regardless of whether or not it services the wrap mortgage loan, reflecting the name of each wrap borrower and the loan or account number, or other unique identifier assigned by the wrap lender to the wrap mortgage loan. A wrap lender registrant may maintain the wrap borrower index as a part of other records maintained by the wrap lender registrant; provided, the wrap lender registrant is able to sort, generate, and print, as a separate record, the wrap borrower index in strict alphabetical order.

(3) Wrap Mortgage Transaction File. A wrap lender registrant must maintain a wrap mortgage transaction file for each wrap mortgage loan or be able to produce the same information within a reasonable time upon request. The wrap mortgage transaction file must contain documents demonstrating the wrap lender registrant's compliance with applicable law, including Finance Code Chapter 159, and any applicable state and federal statutes, rules, or regulations. The wrap mortgage loan transaction file must include the following records or documents:

(A) for all wrap mortgage loan transactions:

(i) the promissory note, loan agreement, or repayment agreement, signed by the wrap borrowers;

(ii) the recorded deed of trust, contract, security deed, security instrument, or other lien transfer document signed by the wrap borrower(s);

(iii) the title insurance policy or abstract of title;

(iv) the initial and final mortgage application (including any attachments, supplements, or addenda thereto), signed and dated by the mortgage applicant and the residential mortgage loan originator, and any other written or recorded information used to evaluate the mortgage application, as required by Regulation B (12 C.F.R. §1002.4(c));

(v) the real estate contract documenting the sale of the residential real estate securing the wrap mortgage loan;

(vi) the disclosure statement requirement by Finance Code §159.101 and §59.101 of this title (relating to Required Disclosure), including any foreign-language disclosure required by Finance Code §159.102;

(vii) the initial and any revised integrated loan estimate disclosure required by Regulation Z (12 C.F.R. §1026.37);

(viii) the initial, revised, and final closing disclosure as required by Regulation Z (12 C.F.R. §1026.38);

(ix) any rate lock agreements, or similar document;

(x) the records relating to the ability-to-repay the wrap mortgage loan required by Regulation Z (12 C.F.R. §1026.25 and §1026.43);

(xi) copies of any appraisal reports or written valuation reports used to determine the value of the residential real estate;

(xii) the privacy notice required by Regulation P (12 C.F.R. §1016.5); and

(xiii) the wrap borrower's authorization and consent to receive electronic documents as required by the E-Sign Act and Regulation Z (12 C.F.R. §1026.17(a)(1);

(B) with respect to servicing the wrap mortgage loan, the following additional records are required to be maintained:

(i) any payoff requests received from the wrap borrower, agent of the wrap borrower, another lender, or a title company;

(ii) any payoff statements issued to the wrap borrower, agent of the wrap borrower, another lender, or a title company;

(iii) if the wrap mortgage loan is paid off or otherwise satisfied, a copy of the release of lien;

(iv) receipts or invoices along with proof of payment for any attorneys' fees assessed, charged, or collected in the collection of a delinquent wrap mortgage loan;

(v) if collateral protection insurance is acquired or purchased, a copy of the insurance policy or certificate of insurance and the notice required by Finance Code §307.052;

(vi) any periodic statements or billing invoices sent to the wrap borrower;

(vii) copies of any collection letters or notices sent by the wrap lender registrant or its agent to the wrap borrower;

(viii) any modification, reinstatement, or settlement agreement that is proposed or entered into between the wrap borrower and the wrap lender registrant;

(ix) any records related to a consumer inquiry, complaint, or error resolution;

(x) any records or documents relating to a request for protection under the Servicemembers Civil Relief Act (50 U.S.C. §3901 et seq.); and

(xi) any other servicing notice, disclosure, or record required by federal or state law;

(C) for wrap mortgage loan transactions involving a foreclosure or attempted foreclosure, the following records:

(i) for transactions involving judicial foreclosure:

(I) any records pertaining to a judicial foreclosure including records from the wrap lender registrant's attorneys, the court, or the wrap borrower or the wrap borrower's agent;

(II) any notice to cure the default sent to the wrap borrower and each superior lienholder as required by Property Code §51.002(d), including verification of delivery of the notice;

(III) any notice of intent to accelerate sent to the wrap borrower and each superior lienholder, including verification of delivery of the notice;

(IV) any notice of acceleration sent to the wrap borrower and each superior lienholder; and

(V) any records related to receipt of the foreclosure proceeds;

(ii) for transactions involving non-judicial foreclosure:

(I) the notice to cure the default sent to the wrap borrower and each superior lienholder as required by Property Code §51.002(d), including verification of delivery of the notice;

(II) the notice of intent to accelerate sent to the wrap borrower and each superior lienholder, including verification of delivery of the notice;

(III) the notice of acceleration sent to the wrap borrower and each superior lienholder;

(IV) the notice of sale required by Property Code §51.002(b) including verification of delivery of the notice;

(V) any records related to the foreclosure sale by the trustee including the person purchasing the property, and the dollar amount of the proceeds received from the foreclosure sale;

(VI) any records related to a short sale, deed-in-lieu of foreclosure, or similar disposition;

(VII) proof of payment of reasonable fees or charges paid by the trustee in connection with the deed of trust or similar instrument including fees for enforcing the lien against or posting for sale, selling, or releasing the residential real estate secured by the deed of trust; and

(VIII) the foreclosure deed upon sale of the property;

(D) for wrap mortgage loan transactions where the wrap borrower provided an actionable notice of rescission and the wrap lender registrant did not avoid the rescission, a copy of the notice of rescission and documentation reflecting that the wrap lender registrant refunded to the wrap borrower all amounts required by Finance Code §159.104(c);

(E) for wrap mortgage loan transactions where the wrap lender avoided the rescission, documentation reflecting that the wrap lender:

(i) paid the outstanding balance due on the debt owed on the residential real estate to the superior lienholders;

(ii) paid any due and unpaid taxes or other governmental assessments owed on the residential real estate;

(iii) paid to the wrap borrower as damages for noncompliance the sum of $1,000 and any reasonable attorneys' fees incurred by the wrap borrower; and

(iv) evidence of compliance with clause (i) or (ii) of this subparagraph provided to the wrap borrower;

(F) for wrap mortgage loan transactions where the wrap borrower has deducted from the amount owed to the wrap lender under the terms of the wrap mortgage loan as authorized by Finance Code §159.202, any records related to this action including the written notice from the wrap borrower required by §59.201 of this title (relating to Right to Deduct; Notice of Deduction), and any actions taken to address the deductions;

(4) General Business Records. General business records include:

(A) all servicing and sub-servicing agreements entered into by the wrap lender registrant as a residential mortgage loan servicer;

(B) policies and procedures related to the origination and servicing of wrap mortgage loans by the wrap lender registrant, including, but not limited to, Quality Control Policy / Compliance Manual, Identify Theft Prevention Program / Red Flags Rule required by 16 C.F.R. §681 et seq., Anti-Money Laundering Program required by Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Personnel Administration / Employee Policies, Ability-to-Repay Underwriting Policies, and an information security program required by 16 C.F.R. §314.1 et seq.;

(C) records reflecting the disbursement of money to pay the superior lienholders and payment of taxes and insurance for which the wrap lender registrant has received from the wrap borrower;

(D) all checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies thereof) relating to disbursements made in connection with wrap mortgage loans by the wrap lender registrant;

(E) complete records (including invoices and supporting documentation) for all expenses and fees paid in connection with the wrap mortgage loan, including the date and amount of all such payments;

(F) copies of all written complaints or inquiries (or summaries of any verbal complaints or inquiries) along with any and all correspondence, notes, responses, and documentation relating thereto and the disposition thereof;

(G) copies of all contractual agreements or understandings with third parties in any way relating to a wrap mortgage loan transaction;

(H) copies of all reports of audits, examinations, reviews, investigations, or other similar matters performed by any third party, including any regulatory or supervisory authorities; and

(I) copies of all advertisements in the medium (e.g., recorded audio, video, and print) in which they were published or distributed;

(5) Record of the wrap borrower's account (payment and collection history). A separate record must be maintained for the servicing account of each wrap borrower and the record must contain at least the following information on each wrap mortgage loan serviced by the wrap lender registrant:

(A) loan identification number;

(B) loan repayment schedule and terms, itemized to reflect:

(i) the date of the loan;

(ii) the number of installments;

(iii) the due date of installments;

(iv) the amount of each installment; and

(v) the maturity date;

(C) name, address, and phone number of the wrap borrower(s);

(D) legal description of the residential real estate;

(E) principal amount;

(F) total interest charges, including the scheduled base finance charge, points (i.e., prepaid finance charge), and per diem interest;

(G) amount of official fees for recording or releasing a security interest that are collected at the time the loan is made;

(H) individual payment entries, itemized to show:

(i) the date payment was received (dual postings are acceptable if the date of posting is other than the date of receipt);

(ii) actual amounts received for application to principal and interest; and

(iii) actual amounts paid for default, deferment, or other authorized charges;

(I) individual entries for disbursements of funds from a wrap borrower under the terms of wrap mortgage loan to superior lienholders, taxing authorities, insurance companies, or other payees, itemized to show:

(i) the actual date of disbursement; and

(ii) the actual amounts disbursed;

(J) any refunds of unearned charges that are required in the event a loan is prepaid in full, including records of final entries, and entries to substantiate that refunds due were paid to the wrap borrower(s), with refund amounts itemized to show interest charges refunded, including the refund of any unearned points; and

(K) collection contact history, including a record of each contact made by a wrap lender registrant with the wrap borrower or any other person and each contact made by the wrap borrower with the wrap lender registrant, in connection with amounts due, with each record including the date, method of contact, contacted party, person initiating the contact, and a summary of the contact.

(d) A wrap lender registrant must maintain such other books and records as may be required to evidence compliance with applicable state and federal laws, rules, and regulations, including, but not limited to: the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, and the Truth in Lending Act.

(e) A wrap lender registrant must maintain such other books and records as the Commissioner or the Commissioner's designee may from time to time specify in writing.

(f) Production of Records. All books and records required by this section must be maintained in good order and must be produced for the Commissioner or the Commissioner's designee upon request.

(g) Records Retention Period. All books and records required by this section must be maintained for three years or such longer period(s) as may be required by applicable state or federal laws, rules, and regulations.

(h) Records Retention After Dissolution. Within ten days of termination of operations, a wrap lender registrant must provide SML with written notice of where the required records will be maintained for the prescribed periods. If such records are transferred to another wrap lender registrant, the transferee must provide SML with written notice within ten days after receiving such records.

§59.402. Examination of Wrap Lender Registrants.

(a) Purpose. This section clarifies and establishes requirements related to SML's authority to make inspections of a wrap lender required to register as a residential mortgage loan servicer under Finance Code Chapter 158, as provided by Finance Code §159.252.

(b) Notice of Examination. Except when SML determines that giving advance notice would impair the examination, SML will give the primary contact person of the wrap lender registrant listed in NMLS, or a person designated by the primary contact person, advance notice of each examination. Such notice will be sent to the primary contact person's or designated person's mailing address or email address of record with NMLS and will specify the date on which SML's examiners are scheduled to begin the examination. Failure to receive the notice will not be grounds for delay or postponement of the examination. The notice will include a list of the documents and records that must be produced or made available to facilitate the examination.

(c) Examination Scope. Examinations will be conducted to determine compliance with Finance Code Chapter 159, and this chapter, and will specifically address whether:

(1) all required books and records are being maintained in accordance with §59.401 of this title (relating to Required Books and Records by a Wrap Lender Registrant);

(2) all legal and regulatory requirements applicable to the wrap lender registrant are being properly followed; and

(3) other matters SML and its examiners deem necessary or advisable to carry out the purposes of Finance Code Chapter 159.

(d) Loan Sample. The examiners will review a sample of wrap mortgage loan files identified by the examiners from the wrap lender registrant's wrap mortgage servicing log required by §59.401(c)(1) of this title. The examiner may expand the number of files to be reviewed if, in his or her discretion, conditions warrant.

(e) The examiners may require a wrap lender registrant, at its own cost, to make copies of loan files or such other books and records as the examiners deem appropriate for the preparation of or inclusion in the examination report.

(f) Confidentiality. The work papers, compilations, findings, reports, summaries, and other materials, in whatever form, relating to an examination conducted under this section, will be maintained as confidential except as permitted or required by law.

(g) Reimbursement for Costs. When SML must travel outside of Texas to conduct an examination of a wrap lender registrant because the required records are maintained at a location outside of Texas, SML will require reimbursement for the actual costs incurred by SML in connection with such travel, including, but not limited to, transportation, lodging, meals, communications, courier service, and any other reasonably related costs.

§59.403. Investigation of Wrap Lender Registrants.

(a) Purpose. The purpose of this section is to implement the requirements of Finance Code §159.252 concerning SML's authority to conduct an investigation of a wrap lender required to register as a residential mortgage loan servicer under Finance Code Chapter 158.

(b) Reasonable Cause for Investigation. Pursuant to Finance Code §159.252(b), SML may, upon a finding of reasonable cause, examine a wrap lender registrant to determine whether the wrap lender

registrant is complying with Finance Code Chapter 159, and this chapter. Reasonable cause will be deemed to exist if SML has received information from a source the Commissioner has no reason to believe to be other than reliable, including documentary or other evidence, or information, indicating facts which a prudent person would deem worthy of investigation as a violation of Finance Code Chapter 159, or this chapter.

(c) Investigations will be conducted as deemed appropriate in light of all the relevant facts and circumstances then known. Such investigation may include any or all of the following:

(1) review and consideration of any complaints received by SML against a wrap lender registrant;

(2) review of documentary evidence;

(3) interviews with complainants, licensees, and third parties;

(4) obtaining reports, advice, and other comments and assistance from other state and/or or federal regulatory, enforcement, or oversight bodies; and

(5) other lawful investigative techniques SML deems necessary or appropriate, including, but not limited to, requesting that complainants or other parties that are the subject of a complaint provide explanatory, clarifying, or supplemental information.

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 26, 2024.

TRD-202403951
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 78. WRAP MORTGAGE LOANS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes to repeal all existing rules in 7 TAC Chapter 78: §§78.1 - 78.3, 78.100 - 78.102, 78.200, 78.201, 78.300 - 78.303, and 78.400 - 78.403 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 78, Wrap Mortgage Loans, affect wrap mortgage lenders, borrowers, and any person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan, including servicers of a wrap mortgage loan under Finance Code Chapter 159, Wrap Mortgage Loan Financing.

Changes Concerning the Reorganization (Relocation) of Wrap Mortgage Loan Rules from Chapter 78 to Chapter 59

SML has determined it should reorganize its rules concerning wrap mortgage loans by relocating the rules to Chapter 59 (a vacant chapter). The proposed rules, if adopted, would repeal all existing rules in Chapter 78. In a related proposal published elsewhere in this issue of the *Texas Register,* SML proposes new rules in Chapter 59 affecting wrap mortgage lenders, borrowers, and any person who collects or receives a payment from a wrap borrower under the terms of a wrap mortgage loan. The new rules are patterned after the existing rules in Chapter 78.

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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing wrap mortgage loans to be easier to find by members of the public.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement); (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning the Reorganization (Relocation) of Wrap Mortgage Loan Rules from Chapter 78 to Chapter 59 have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of indi-

viduals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days after publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§78.1 - 78.3

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§78.1. Purpose and Applicability.

§78.2. Definitions.

§78.3. Computation of Time.

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 26, 2024.

TRD-202403952
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LENDER REQUIREMENTS AND RESPONSIBILITIES

7 TAC §§78.100 - 78.102

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§78.100. Purpose and Applicability.

§78.101. Required Disclosures.

§78.102. Closing Requirements.

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 26, 2024.

TRD-202403953
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. BORROWER'S RIGHTS AND RESPONSIBILITIES

7 TAC §78.200, §78.201

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§78.200. Purpose and Applicability.

§78.201. Right to Deduct; Notice of Deduction.

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 26, 2024.

TRD-202403954
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. WRAP LENDER AND SERVICER REQUIREMENTS

7 TAC §§78.300 - 78.303

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§78.300. Purpose and Applicability.

§78.301. Fiduciary Duties; Required Accounting.

§78.302. Trust Account; Maintenance of Funds Held in Trust.

§78.303. Use of a Third-Party Servicer.

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 26, 2024.

TRD-202403956
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER E. COMPLIANCE AND ENFORCEMENT

7 TAC §§78.400 - 78.403

Statutory Authority

This proposal is made under the authority of Finance Code §159.108, authorizing the commission to adopt and enforce rules for the intent of or to ensure compliance with Finance Code Chapter 159.

This proposal affects the statutes in Finance Code Chapter 159, Wrap Mortgage Loan Financing.

§78.400. Purpose and Applicability.

§78.401. Required Books and Records by a Wrap Lender Registrant.

§78.402. Examination of Wrap Lender Registrants.

§78.403. Investigation of Wrap Lender Registrants.

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 26, 2024.

TRD-202403957
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 79. RESIDENTIAL MORTGAGE LOAN SERVICERS

SUBCHAPTER A. REGISTRATION

7 TAC §§79.1 - 79.5

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes to repeal all existing rules in 7 TAC Chapter 79: §§79.1 - 79.5, 79.20, 79.30, 79.40, and 79.50 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 79, Residential Mortgage Loan Servicers, affect residential mortgage loan servicers (mortgage servicers) registered with SML under Finance Code Chapter 158, Residential Mortgage Loan Servicers.

Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Servicer Rules from Chapter 79 to Chapter 58

SML has determined it should reorganize its rules concerning mortgage servicers by relocating the rules to Chapter 58 (a vacant chapter). The proposed rules, if adopted, would repeal all existing rules in Chapter 79. In a related proposal published elsewhere in this issue of the *Texas Register,* SML proposes new rules in Chapter 59 affecting mortgage servicers that are patterned after the existing rules in Chapter 79.

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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing mortgage servicers to be easier to find by members of the public.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are

directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement); (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Servicer Rules from Chapter 79 to Chapter 58 have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§79.1. Definitions.

§79.2. Required Disclosure.

§79.3. Registration - General.

§79.4. Bond Requirement.

§79.5. Renewal of Registration.

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 26, 2024.

TRD-202403958
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. COMPLAINTS AND INVESTIGATIONS

7 TAC §79.20

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§79.20. Investigations.

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 26, 2024.

TRD-202403959
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. HEARINGS AND APPEALS

7 TAC §79.30

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§79.30. Hearings and Appeals.

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 26, 2024.

TRD-202403960
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. INTERPRETATIONS

7 TAC §79.40

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§79.40. Interpretations.

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 26, 2024.

TRD-202403961
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER E. SAVINGS CLAUSE

7 TAC §79.50

Statutory Authority

This proposal is made under the authority of Finance Code §158.003, authorizing the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

This proposal affects the statutes in Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

§79.50. Savings Clause.

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 26, 2024.

TRD-202403962
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 80. RESIDENTIAL MORTGAGE LOAN COMPANIES

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes to repeal all existing rules in 7 TAC Chapter 80: §§80.1 - 80.5, 81.100 - 80.102, 80.105 - 80.107, 80.200 - 80.206, and 80.300 - 80.302 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 80, Residential Mortgage Loan Companies, affect residential mortgage loan companies (mortgage companies) licensed by SML under Finance Code Chapter 156.

Changes Concerning the Reorganization (Relocation) of Mortgage Company Rules from Chapter 80 to Chapter 56

SML has determined it should reorganize its rules concerning mortgage companies by relocating the rules to Chapter 56 (a vacant chapter). The proposed rules, if adopted, would repeal all existing rules in Chapter 80. In a related proposal published elsewhere in this issue of the *Texas Register,* SML proposes new rules in Chapter 56 affecting mortgage companies that are patterned after the existing rules in Chapter 80.

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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing originators and mortgage bankers to be easier to find by members of the public.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement); (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning the Reorganization (Relocation) of Mortgage Company Rules from Chapter 80 to Chapter 56 have the effect of repealing existing rule requirements as discussed in such section; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§80.1 - 80.5

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act).

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§80.1. Scope.

§80.2. Definitions.

§80.3. Interpretations.

§80.4. Enforceability of Liens.

§80.5. Savings Clause.

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 26, 2024.

TRD-202403963
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LICENSING

7 TAC §§80.100 - 80.102, 80.105 - 80.107

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§80.100. Licensing - General.

§80.101. Sponsorship of Originator; Responsibility for Originator's Actions.

§80.102. Qualified Individual.

§80.105. Fees.

§80.106. Renewals.

§80.107. NMLS Records; Notice to Licensee.

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 26, 2024.

TRD-202403964
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§80.200 - 80.206

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act).

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§80.200. Required Disclosures.

§80.201. Loan Status Forms.

§80.202. Prohibition on False, Misleading, or Deceptive Practices and Improper Dealings.

§80.203. Advertising.

§80.204. Books and Records.

§80.205. Mortgage Call Reports.

§80.206. Office Locations; Remote Work.

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 26, 2024.

TRD-202403965
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

7 TAC §§80.300 - 80.302

Statutory Authority

This proposal is made under the authority of Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, 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 et seq.; federal SAFE Act).

This proposal affects the statutes in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

§80.300. Examinations.

§80.301. Investigations, Administrative Penalties, and Disciplinary and/or Enforcement Actions.

§80.302. Hearings and Appeals.

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 26, 2024.

TRD-202403966
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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CHAPTER 81. MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML) proposes to repeal all existing rules in 7 TAC Chapter 81: §§81.1 - 81.5, 81.100 - 81.111, 81.200 - 81.206, and 81.300 - 81.302 (proposed rules).

Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators, affect mortgage bankers registered with SML and individual residential mortgage loan originators (originators) licensed by SML under Finance Code Chapter 157.

Changes Concerning the Reorganization (Relocation) of Mortgage Banker Rules from Chapter 81 to Chapter 57

SML has determined it should reorganize its rules concerning mortgage bankers by relocating the rules to Chapter 57 (a vacant chapter) and devoting such chapter exclusively to rules affecting mortgage bankers. The proposed rules, if adopted, would repeal all existing rules in Chapter 81 concerning mortgage bankers. In a related proposal published elsewhere in this issue of the *Texas Register,* SML proposes new rules in Chapter 57 affecting mortgage bankers that are patterned after the existing rules in Chapter 81.

Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Originator Rules from Chapter 81 to Chapter 55

SML has determined it should reorganize its rules concerning originators by relocating the rules to Chapter 55 (a vacant chapter) and devoting such chapter exclusively to rules affecting originators. The proposed rules, if adopted, would repeal all existing rules in Chapter 81 concerning originators. In a related proposal published elsewhere in this issue of the *Texas Register,* SML proposes new rules in Chapter 55 affecting originators that are patterned after the existing rules in Chapter 81.

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 rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are 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 rules. Implementation of the proposed rules 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 rules 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 rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be: for SML's rules governing originators and mortgage bankers to be easier to find by members of the public.

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

William Purce has determined that for the first five years the proposed rules are in effect there are no probable economic costs to persons required to comply with the proposed rules that are directly attributable to the proposed rules 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 rules are in effect, SML has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement); (6) the proposed rules do expand, limit, or repeal an existing regulation (rule requirement). The proposed rules related to Changes Concerning the Reorganization (Relocation) of Mortgage Banker Rules from Chapter 81 to Chapter 57 and Changes Concerning the Reorganization (Relocation) of Residential Mortgage Loan Originator Rules from Chapter 81 to Chapter 55 have the effect of repealing existing rule requirements as discussed in such sections; (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. 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 rules 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 rules. 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 rules. 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 rules 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. All comments must be received within 30 days of publication of this proposal.

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §§81.1 - 81.5

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§81.1. Scope.
§81.2. Definitions.
§81.3. Interpretations.
§81.4. Enforceability of Liens.
§81.5. Savings Clause.

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 26, 2024.

TRD-202403967
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER B. LICENSING OF INDIVIDUAL ORIGINATORS

7 TAC §§81.100 - 81.111

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§81.100. Licensing - General.

§81.101. Sponsorship of Originator.

§81.102. Temporary Authority.

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

§81.104. Required Education.

§81.105. Fees.

§81.106. Renewals.

§81.107. NMLS Records; Notice to Licensee.

§81.108. Background Checks.

§81.109. Procedures for Review of Background Checks.

§81.110. Criminal Conviction Guidelines.

§81.111. Request for Criminal History Eligibility Determination.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403968
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §§81.200 - 81.206

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§81.200. Required Disclosures.

§81.201. Loan Status Forms.

§81.202. Prohibition on False, Misleading, or Deceptive Practices and Improper Dealings.

§81.203. Advertising.

§81.204. Books and Records.

§81.205. Mortgage Call Reports.

§81.206. Office Locations; Remote Work.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403969
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

7 TAC §§81.300 - 81.302

Statutory Authority

This proposal is made under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157 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 et seq.; federal SAFE Act). This proposal is also made under the authority of Finance Code §180.004(b), authorizing the commission to adopt rules necessary to implement Finance Code Chapter 180 and as required to carry out the intentions of the federal SAFE Act.

This proposal affects the statutes in Finance Code: Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§81.300. Examinations.

§81.301. Investigations.

§81.302. Hearings and Appeals.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403970
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1535

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING OPEN EDUCATION RESOURCE INSTRUCTIONAL MATERIALS

19 TAC §67.1315

The Texas Education Agency (TEA) proposes new §67.1315, concerning open education resource (OER) instructional materials. The proposed new rule would implement House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, by providing clarification on the requirements for a school district's OER transition plan.

BACKGROUND INFORMATION AND JUSTIFICATION: HB 1605, 88th Texas Legislature, Regular Session, 2023, significantly revised Texas Education Code (TEC), Chapter 31, which addresses instructional materials in public education. Specifically, the bill added TEC, §31.0751, to require school districts to adopt an OER instructional materials transition plan to qualify for additional state aid under TEC, §48.308. School districts participating in an OER instructional material support program are not required to adopt a transition plan.

Proposed new §67.1315 would provide clarification on the requirements for a school district's OER transition plan, including when a plan must be submitted and what it must contain. The proposed new rule would also specify that the commissioner may request and review OER instructional material transition plans at any time and reject a plan subsequent to review.

FISCAL IMPACT: Todd Davis, associate commissioner for instructional strategy, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: 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.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would create a new regulation regarding requirements for a school district's OER transition plan to implement HB 1605, 88th Texas Legislature, Regular Session, 2023. The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Davis has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing school districts with clarifications regarding requirements for a school district's OER transition plan. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposed new rule would have a data and reporting impact. The new rule would require a school district or an open-enrollment charter school ordering OER materials to indicate, if applicable, that the district or charter school has an approved OER transition plan in the state's instructional materials ordering system, EMAT.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins September 6, 2024, and ends October 7, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on September 6, 2024. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The new section is proposed under TEC, §31.003(b), as added by House Bill (HB) 1605, 88th Texas Legislature, Regular Session, 2023, which authorizes the commissioner of education to adopt rules consistent with TEC, Chapter 31, as necessary to implement a provision of the chapter that the commissioner or the agency is responsible for implementing; and TEC, §31.0751, as added by HB 1605, 88th Texas Legislature, Regular Session, 2023, which requires school districts to adopt an open education resource instructional material transition plan, unless otherwise exempt.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §31.003(b) and §31.0751, as added by House Bill 1605, 88th Texas Legislature, Regular Session, 2023.

§67.1315. Open Education Resource Instructional Material Transition Plan.

(a) The open education resource (OER) instructional material transition plan shall be submitted, when required by this section, in a format determined by the commissioner of education.

(b) A school district or an open-enrollment charter school is required to have a locally maintained OER transition plan that complies with this section to access funding allotted under Texas Education Code (TEC), §48.308.

(c) A school district or an open-enrollment charter school is required to submit an OER instructional material transition plan only when:

(1) first adopting a State Board of Education (SBOE)-approved OER product for a grade level or subject/course; or

(2) expanding implementation of an SBOE-approved OER product to additional campuses and/or grade levels.

(d) The OER instructional material transition plan adopted by the local board of trustees or the governing body of an open-enrollment charter school shall include the plan of the district or charter school to ensure the following:

(1) clear communication and stakeholder change management plans and timelines;

(2) timely access to print materials and related manipulatives through OER procurement and distribution;

(3) sufficient planning and instructional time evidenced by instructional calendars and master schedules aligned to the requirements of the materials;

(4) clear expectations for the implementation of:

(A) instructional materials;

(B) internalization and student work analysis protocols; and

(C) curriculum-embedded assessments;

(5) processes for stakeholder communication and public posting, as outlined in TEC, §26.006, if materials have been modified by the school district or open-enrollment charter school;

(6) the maintenance of instructional flexibility through clear guidance for acceptable teacher modifications to instructional pacing, sequencing, and lesson content to address the needs of each student; and

(7) sufficient professional learning and development for school leaders, instructional coaches, and teachers, including:

(A) pre-service product onboarding and orientation; and

(B) ongoing, job-embedded, curriculum-based professional learning, including cycles of observation and feedback.

(e) The commissioner may request and review OER instructional material transition plans at any time and reject a plan subsequent to review.

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 26, 2024.

TRD-202403929
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1497

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CHAPTER 103. HEALTH AND SAFETY

SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1213

The Texas Education Agency (TEA) proposes new §103.1213, concerning safe schools. The proposed new rule would require school safety and security-related reporting through Sentinel in accordance with Texas Education Code (TEC), §37.1083. Sentinel is a comprehensive system designed to enhance the safety and security of students, faculty, and staff in school buildings across Texas.

BACKGROUND INFORMATION AND JUSTIFICATION: In accordance with TEC, §37.1083, each school district and open-enrollment charter school must submit information requested by TEA in their efforts to monitor the implementation and operation of school district safety and security requirements. The statute allows TEA to review school district records as necessary to ensure compliance.

Proposed new §103.1213(a) would outline school safety reporting requirements for school districts and open-enrollment charter schools under TEC, §37.1083.

Proposed new subsection (b) would provide the terms and definitions applicable to the proposed new section.

Proposed new subsection (c) would delineate Sentinel as a repository for all safety and security-related data submitted to TEA by school districts, open-enrollment charter schools, campuses, and other entities.

Proposed new subsection (d) would affirm the confidentiality of documents or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements.

Proposed new subsection (e) would require school systems to report through Sentinel information related to Behavioral Threat Assessments, District Vulnerability Assessments (DVAs), emergency management, and Intruder Detection Audits (IDAs).

FISCAL IMPACT: James Finley, deputy chief of school safety and security, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: 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.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking

would be in effect, it would create a new regulation to establish Sentinel as the repository for all safety and security related data submitted to TEA by school districts, open-enrollment charter schools, campuses, and other entities.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Finley has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to provide school districts with a comprehensive system designed to enhance the safety and security of students, faculty, and staff in school buildings across Texas. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have a data and reporting impact to implement the requirements of TEC, §37.1083. School districts and open-enrollment charter schools will be required to submit information throughout the year based on the schedule for IDAs and DVAs, or as needed for safety concerns. Initial information would be imported from AskTED. Districts and charter schools would be required to verify that the information is correct, update it as necessary, and provide facility-level information that may differ from what is available. TEA would work with AskTED to streamline future processes. In accordance with TEC, §37.1083, any document or information collected, identified, developed, or produced relating to the monitoring of district safety and security requirements under new §103.1213 would be confidential and not subject to disclosure under Texas Government Code, Chapter 552.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins September 6, 2024, and ends October 7, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on September 6, 2024. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code, §37.1083, which requires school districts and open-enrollment charter schools to submit information requested by the Texas Education Agency in their efforts to monitor the implementation and operation of school district safety and security requirements.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §37.1083.

§103.1213. Required Reporting through Sentinel.

(a) In accordance with Texas Education Code (TEC), §37.1083, each school district and open-enrollment charter school shall submit information requested by the Texas Education Agency (TEA) in their efforts to monitor the implementation and operation of school district safety and security requirements. TEA may review school district records as necessary to ensure compliance with this section.

(b) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Discipline record--a student's cumulative record of formal disciplinary actions reported through the Public Education Information Management System from the date that the student was first enrolled in a public school and that the local education agency has retained in accordance with the records retention policy.

(2) School system--a term that has the meaning assigned by §61.1031(a)(6) of this title (relating to School Safety Requirements).

(3) Sentinel--TEA's formal school safety system designed to collect, process, store, and distribute school safety and security information.

(c) Sentinel serves as a repository for all safety and security-related data submitted to TEA by school districts, open-enrollment charter schools, campuses, and other entities.

(d) Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements under this section is confidential under Texas Government Code, §418.177 and §418.181, and not subject to disclosure under Texas Government Code, Chapter 552.

(e) Each school system shall report the following information through Sentinel.

(1) Behavioral Threat Assessments (BTAs).

(A) When conducting a BTA under TEC, §37.115, members of a threat assessment team shall utilize the threat assessment instrument, manual, and field guide in Sentinel, which are consistent with the model policies published by the Texas School Safety Center (TxSSC).

(B) A school district shall utilize Sentinel to securely transfer under TEC, §26.036, any disciplinary record or threat assessment conducted on a student to a receiving school system when a student transfers to a new school district. All BTAs for a student are subject to the transfer requirement. Any BTAs conducted prior to August 1, 2025, shall be uploaded into Sentinel in a manner determined by TEA.

(2) District Vulnerability Assessments (DVAs).

(A) In accordance with TEC, §37.1083, the TEA Office of School Safety and Security will monitor the implementation of requirements related to school safety and security, to include conducting detailed vulnerability assessments.

(B) Any documentation requested by TEA for a DVA must be uploaded to Sentinel.

(3) Emergency management.

(A) On or before June 30th of each year, all school systems shall input their upcoming school year calendar into Sentinel. Any changes to the school year calendar shall be updated in Sentinel within three business days after approval by district leadership.

(B) On or before June 30th of each year, school systems must verify that all district facilities listed in Sentinel reflect the correct address and campus emergency contact information.

(C) If a school system closes for a localized emergency, closure information must be immediately recorded in Sentinel.

(D) All school systems shall submit information related to events requiring an emergency response, including the discovery of a firearm on a campus, in the Sentinel portal. This is inclusive of notifications regarding a bomb threat or terroristic threat, as outlined in TEC, §37.113. Submission of information in the Sentinel portal does not substitute the requirement for local law enforcement notification of certain activities in TEC, §37.015.

(E) Upon completed review of a school system's multi-hazard emergency operations plan, the TxSSC may upload a copy of that plan, including all required appendices, to the Sentinel portal.

(F) Subsequent to a school system superintendent change, the direct contact information of the superintendent (or person acting in that capacity) must be updated in Sentinel within three business days of a corresponding board meeting.

(4) Intruder Detection Audits (IDAs).

(A) In accordance with TEC, §37.1084, the TEA Office of School Safety and Security will establish a school safety review team in each region served by a regional education service center. Teams shall annually conduct on-site general intruder detection audits of school district campuses in the team's region.

(B) Any documentation requested by TEA for an IDA must be uploaded to Sentinel.

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 26, 2024.

TRD-202403920
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-1497

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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 §153.24

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.24, Complaint Processing.

The proposed amendments to §153.24 clarifies the preliminary investigative review process and corrects references within the rule to another section and another rule.

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 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.

Growth Impact Statement:

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; 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 for certifying or licensing an appraiser or appraiser trainee and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§153.24. Complaint Processing.

(a) Receipt of a Complaint Intake Form by the Board does not constitute the filing of a formal complaint by the Board against the individual named on the Complaint Intake Form. Upon receipt of a signed Complaint Intake Form, staff shall:

(1) assign the complaint a case number in the complaint tracking system; and

(2) send written acknowledgement of receipt to the Complainant.

(b) Priority of complaint investigations. The Board prioritizes and investigates complaints based on the risk of harm each complaint poses to the public. Complaints that pose a high risk of public harm include violations of the Act, Board rules, or USPAP that:

(1) evidence serious deficiencies, including:

(A) Fraud;

(B) Identity theft;

(C) Unlicensed activity;

(D) Ethical violations;

(E) Failure to properly supervise an appraiser trainee; or

(F) Other conduct determined by the Board that poses a significant risk of public harm; and

(2) were done:

(A) with knowledge;

(B) deliberately;

(C) willfully; or

(D) with gross negligence.

(c) The Board or the Executive Director may delegate to staff the duty to dismiss complaints. The complaint shall be dismissed with no further processing if the staff determines at any time that:

(1) the complaint is not within the Board's jurisdiction;

(2) no violation exists; or

(3) an allegation or formal complaint is inappropriate or without merit.

(d) A determination that an allegation or complaint is inappropriate or without merit includes a determination that the allegation or complaint:

(1) was made in bad faith;

(2) filed for the purpose of harassment;

(3) to gain a competitive or economic advantage; or

(4) lacks sufficient basis in fact or evidence.

(e) Staff shall conduct a preliminary inquiry to determine if dismissal is required under subsection (d) of this section.

(f) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) may be investigated covertly; and

(2) shall be referred to the appropriate prosecutorial authorities.

(g) Staff may request additional information from any person, if necessary, to determine how to proceed with the complaint.

(h) If the TALCB Division requires additional information from a Respondent during the [~~As part of a~~] preliminary investigative review, a copy of the Complaint Intake Form and all supporting documentation shall be included in the request, [~~sent to the Respondent~~] unless the complaint qualifies for covert investigation and the TALCB Division deems covert investigation appropriate.

(i) The Board will:

(1) protect the complainant's identity to the extent possible by excluding the complainant's identifying information from a complaint notice sent to a respondent.

(2) periodically send written notice to the complainant and each respondent of the status of the complaint until final disposition. For purposes of this subsection, "periodically" means at least once every 90 days.

(j) The Respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. The response shall include the following:

(1) a copy of the appraisal report that is the subject of the complaint;

(2) a copy of the Respondent's work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE.(SIGNATURE OF RESPONDENT);

(3) a narrative response to the complaint, addressing each and every item in the complaint;

(4) a list of any and all persons known to the Respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the Respondent's possession, contact information;

(5) any documentation that supports Respondent's position that was not in the work file, as long as it is conspicuously labeled as non-work file documentation and kept separate from the work file. The Respondent may also address other matters not raised in the complaint that the Respondent believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by Board staff.

(k) Staff will evaluate the complaint within three months after receipt of the response from Respondent to determine whether sufficient evidence of a potential violation of the Act, Board rules, or the USPAP exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under §153.241 of this title (relating to Sanctions Guidelines) [~~subsection (m) of this section~~], the complaint shall be dismissed with no further processing.

(l) A formal complaint will be opened and investigated by a staff investigator or peer investigative committee, as appropriate, if:

(1) the informal complaint is not dismissed under subsection (k) [~~(i)~~] of this section; or

(2) staff opens a formal complaint on its own motion.

(m) Written notice that a formal complaint has been opened will be sent to the Complainant and Respondent.

(n) The staff investigator assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the Board.

(o) The Board may order a person regulated by the Board to refund the amount paid by a consumer to the person for a service regulated by the Board.

(p) Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1103.458 or §1103.459 must be signed by:

(1) the Board Chair or if the Board Chair is unavailable or must recuse him or herself, the Board Chair's designee, whom shall be (in priority order) the Board Vice Chair, the Board Secretary, or another Board member;

(2) Respondent;

(3) a representative of the TALCB Division; and

(4) the Executive Director or his or her 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.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403901
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3088

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CHAPTER 157. RULES RELATING TO PRACTICE AND PROCEDURE

SUBCHAPTER B. CONTESTED CASE HEARINGS

22 TAC §§157.9 - 157.11

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §§157.9, Notice of Hearing; 157.10, Right to Counsel; Right to Participate; and 157.11, Contested Cases; Entry of Appearance; Continuance. The proposed amendments are made following TALCB's quadrennial rule review for this Chapter, to better reflect current TALCB procedures, and to simplify and clarify where needed.

The proposed amendments to §157.9 simplify the language and make the section more readable.

The proposed amendments to §157.10 provide more detail to the section title and clarify the applicability of SOAH rules related to translations.

The proposed amendments to §157.11 more consistently utilizes abbreviations used through the chapter.

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.

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, Rules Relating to Certificates and Licenses, §1103.154, which authorizes TALCB to adopt rules related to professional conduct, and §1104.051, which authorizes TALCB to adopt rules necessary to administer the provisions of Chapter 1104.

The statutes affected by these amendments are Chapter 1103 and 1104, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§157.9. Notice of Hearing.

(a) The notice of hearing must comply with Chapter 2001, Texas Government Code and the rules of SOAH.

(b) The notice of hearing shall be served not later than the 30th day before the hearing date.

(c) The Board shall serve notice [~~Service of notice of hearing must be made in the manner prescribed by Chapter 2001, Texas Government Code, and the rules of the State Office of Administrative Hearings. Notice to a person who is a current license holder or applicant of the Board is complete and effective if sent~~] by certified mail, return receipt requested, to the respondent [~~respondent's~~] or applicant's mailing address and [~~sent~~] by:

(1) electronic mail to the address [~~as~~] shown in the Board's records; or

(2) first class mail.

(d) The notice must include the following language in capital letters in boldface type: FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE ALLEGATIONS AGAINST YOU SET OUT IN THE COMPLAINT BEING ADMITTED AS TRUE AND A DEFAULT JUDGMENT BEING TAKEN AGAINST YOU.

§157.10. Right to Counsel; Right to Participate; Transcript Cost; Interpreters and Translators.

(a) All parties, at their own expense, may be represented by counsel. This right may be expressly waived. Parties are entitled to respond and present evidence and argument on all issues involved, and to conduct cross examinations for full and true disclosure of the facts.

(b) Costs of a transcript of a SOAH proceeding ordered by a party shall be paid by that party. Costs of a transcript of a SOAH proceeding ordered by the judge shall be split equally between the parties.

(c) A party or witness who needs and interpreter or translator is responsible for making the request under SOAH rules.

§157.11. Contested Cases; Entry of Appearance; Continuance.

(a) When a contested case has been instituted, the respondent or the representative of the respondent shall enter an appearance not later than 20 days after the date of receipt of notice of hearing.

(b) For purposes of this section, a contested case shall mean any action that is referred by the Board to SOAH [~~the State Office of Administrative Hearings~~].

(c) For purposes of this section, an entry of appearance shall mean the filing of a written answer or other responsive pleading with SOAH [~~the State Office of Administrative Hearings~~].

(d) The filing of an untimely appearance by a party, or entering an appearance at the contested case hearing entitles the Board to a continuance of the hearing in the contested case at the Board's discretion for such a reasonable period of time as determined by the administrative law judge, but not for a period of less than 20 days. For purposes of this section, an untimely appearance is an appearance not entered within 20 days of the date the respondent has received notice.

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 23, 2024.

TRD-202403900
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3088

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SUBCHAPTER C. POST HEARING

22 TAC §157.17, §157.18

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §157.17, Final Decisions and Orders, and §157.18, Motions for Rehearing. The proposed amendments are made following TALCB's quadrennial rule review for this Chapter, to better reflect current TALCB procedures, and to simplify and clarify where needed.

The proposed amendments to §157.17 simplify the language. The proposed amendments to §157.18 add a reference a specific section in 1103, for clarity and consistency.

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.

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 for certifying or licensing an appraiser or appraiser trainee and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct, and §1104.051, which authorizes TALCB to adopt rules necessary to administer the provisions of Chapter 1104.

The statute affected by these amendments are Chapter 1103 and 1104, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§157.17. Final Decisions and Orders.

(a) After a proposal for decision has been issued by an administrative law judge, the Board will render the final decision in the con-

tested case or remand the proceeding for further consideration by the administrative law judge.

(b) The Board is responsible for imposing disciplinary action and/or assessing administrative penalties, if any, against a respondent who is found to have violated any of the Board's statutes or rules. The Board welcomes recommendations from an administrative law judge as to the sanctions to be imposed, but the Board is not required to give presumptively binding effect to the judge's recommendations and is not bound by such recommendations.

(c) If the Board remands the case to the administrative law judge, the Board may direct that further consideration be accomplished with or without reopening the hearing and may limit the issues to be considered. If, on remand, additional evidence is admitted that results in a substantial revision of the proposal for decision, or the underlying facts, the administrative law judge shall prepare an amended or supplemental proposal for decision and this subchapter applies [~~shall be prepared by the administrative law judge and the provisions of this subchapter shall apply~~]. Exceptions and replies shall be limited to items contained in the amended or supplemental proposal for decision.

(d) The proposal for decision may be acted upon by the Board after the expiration of the applicable time periods for filing exceptions and replies to exceptions, and after the administrative law judge has ruled on any exceptions and replies.

(e) Any party may request oral arguments before the Board prior to the final disposition of the contested case. If the Board grants oral argument, oral argument will be conducted in accordance with this subsection.

(1) The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2) Oral arguments on the proposal for decision shall be limited to the record established at the contested case hearing. New evidence may not be presented on the substance of the case unless the party submitting the evidence establishes [~~can establish~~] that the new evidence was not reasonably available at the time of the contested case hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the contested case hearing.

(3) In presenting oral arguments, the party bearing the burden of proof shall open and close. The party responding may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4) After being recognized by the presiding member, the members of the Board may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the record and to the arguments made by the parties.

(5) Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a motion regarding disposition of the contested case. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(f) Final orders on contested cases shall be in writing and signed by the presiding officer of the Board. Final orders shall include findings of fact and conclusions of law separately stated from disciplinary actions imposed and administrative penalties assessed. Parties shall be notified as provided in Chapter 2001, Texas Government Code. On written request, a copy of the decision or order shall be delivered or mailed to any party and to the respondent's attorney of record.

(g) The Board may change a finding of fact or conclusion of law in a proposal for decision when the Board determines that:

(1) the judge did not properly apply or interpret applicable law, agency rules, written policies provided by staff or prior administrative decisions;

(2) a prior administrative decision on which the judge relied is incorrect or should be changed; or

(3) a technical error in a finding of fact should be changed.

(h) If the Board modifies, amends, or changes a finding of fact or conclusion of law in a proposal for decision, the order shall reflect the Board's changes and state the specific reason and legal basis for the changes.

(i) If the Board does not follow the recommended disciplinary action and/or administrative penalty in a proposal for decision, the order shall explain why the Board chose not to follow the recommendation.

(j) Imminent Peril. If the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect on a final decision or order in a contested case, it shall recite the factual and legal basis for its finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered, and no motion for rehearing is required as a prerequisite for appeal.

(k) Conflict of Interest. A Board member shall recuse himself or herself from all deliberations and votes regarding any matter:

(1) the Board member reviewed as a member of a Peer Investigative Committee;

(2) involving persons or transactions about which the Board member has a conflict of interest;

(3) involving persons or transactions related to the Board member such that it creates the appearance of a conflict of interest; or

(4) in which the Board member participated in the negotiation of a consent order.

§157.18. Motions for Rehearing.

(a) Motions for rehearing in proceedings under Chapter 1103, Texas Occupations Code, are governed by §1103.519, Texas Occupations Code, §§2001.144 - 2001.147, Texas Government Code, and this section.

(b) Motions for rehearing in proceedings under Chapter 1104, Texas Occupations Code, are governed by §1104.216, Texas Occupations Code, §§2001.144 - 2001.147, Texas Government Code, and this section.

(c) A timely-filed motion for rehearing is a prerequisite to appeal, except as provided in §157.17 of this subchapter. The motion must be filed with the Board by:

(1) delivering the motion in-person to the Board's headquarters;

(2) sending the motion via email to general.counsel@talcb.texas.gov; or

(3) sending the motion via fax to (512) 936-3788, ATTN: TALCB General Counsel.

(d) Replies to a motion for rehearing may be filed as provided in Chapter 2001, Texas Government Code.

(e) A motion for rehearing shall set forth the particular finding of fact, conclusion of law, ruling, or other action which the complaining party asserts caused substantial injustice to the party and was in error such as violation of a constitutional or statutory provision, lack of authority, unlawful procedure, lack of substantial evidence, abuse of discretion, other error of law, or other good cause specifically described in the motion. In the absence of specific grounds in the motion, the Board will take no action, and the motion will be overruled by operation of law.

(f) Any party may request oral arguments before the Board prior to the final disposition of the motion for rehearing. If the Board grants a request for oral argument, oral arguments will be conducted in accordance with this subsection.

(1) The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2) Oral arguments on the motion shall be limited to a consideration of the grounds set forth in the motion. Testimony by affidavit or documentary evidence such as excerpts of the record before the presiding officer may be offered in support of, or in opposition to, the motion; provided, however, a party offering affidavit testimony or documentary evidence must provide the other party with copies of the affidavits or documents at the time the motion is filed. New evidence may not be presented on the substance of the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the contested case hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the contested case hearing.

(3) In presenting oral arguments, the party filing the motion will have the burden of proof and shall open and close. The party responding to the motion may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4) After being recognized by the presiding member, the members of the Board may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the grounds asserted for the motion to be granted and to the arguments made by the parties.

(5) Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a vote on the motion. A member of the Board need not make a separate motion or second a motion filed by a party. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(g) A decision is final and appealable on the date rendered if:

(1) the Board finds that an imminent peril to the public health, safety or welfare requires immediate effect; and

(2) the Board's decision or order recites this finding and the fact that the decision is final and effective on the date 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 23, 2024.

TRD-202403902
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3088

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SUBCHAPTER D. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

22 TAC §157.25

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §157.25, Temporary Suspension. The proposed amendments are made following TALCB's quadrennial rule review for this Chapter, to better reflect current TALCB procedures, and to simplify and clarify where needed.

The proposed amendments utilize an abbreviated term for consistency in the chapter.

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.

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 for certifying or licensing an appraiser or appraiser trainee; §1103.154, which authorizes TALCB to adopt rules relating to professional conduct; and 1104.051, which authorizes TALCB to adopt rules necessary to administer Chapter 1104, Texas Occupations Code.

The statutes affected by these amendments are Chapters 1103 and 1104, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§157.25. Temporary Suspension.

(a) The purpose of a temporary suspension proceeding is to determine whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare. A temporary suspension proceeding is ancillary to a disciplinary proceeding regarding alleged violations of the Act or Board rules and is not dispositive concerning any such violations.

(b) Board staff may request the Board to grant a temporary suspension if:

(1) the Board has opened a complaint investigation against a license holder; and

(2) the following criteria are met:

(A) credible evidence shows:

(i) a license holder may continue to engage in conduct that may violate the Act, Board rules, or USPAP;

(ii) the license holder's conduct involves recent or current appraisal practice; and

(B) sufficient evidence is available to proceed with a contested case hearing within 45 days of a temporary suspension proceeding.

(c) The three Board members of the Enforcement Committee appointed by the chair of the Board shall serve as the disciplinary panel ("Panel") under Texas Occupations Code, §1103.5511 and §1104.211. The chair of the Board shall also appoint a Board member to act as an alternate member of the Panel in the event a member of the Panel is recused or unable to attend a temporary suspension proceeding.

(d) Board staff must request a temporary suspension proceeding in writing by filing a motion for temporary suspension with the Board's general counsel.

(e) The Panel may make a determination regarding a temporary suspension without notice or hearing pursuant to Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1), or may, if appropriate in the judgment of the chair of the Panel, provide the license holder or registrant with three days' notice of a temporary suspension hearing.

(f) The requirement under Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1) that "institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension" shall be satisfied if, on the same day the motion for temporary suspension is filed with the Board's general counsel, the licensed, certified or registered person that is the subject of the temporary suspension motion, and SOAH [~~the State Office of Administrative Hearings~~], as applicable, is sent one of the following documents that alleges facts that precipitated the need for a temporary suspension:

(1) Notice of Alleged Violation;

(2) Original Statement of Charges; or

(3) Amended Statement of Charges.

(g) The Panel shall post notice of the temporary suspension proceeding pursuant to §551.045 of the Texas Government Code and Texas Occupations Code, §1103.5511(e) or §1104.211(e) and hold the temporary suspension proceeding as soon as possible.

(h) The determination whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare shall be made from information presented to the Panel. The Panel may receive information and testimony in oral or written form. Documentary evidence must be submitted to the Board's general counsel in electronic format at least 24 hours in advance of the time posted for the temporary suspension hearing in all cases where the Panel will be meeting via teleconference. If a hearing is held following notice to a license holder or registrant, Board staff will have the burden of proof and shall open and close. The party responding to the motion for temporary suspension may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the chair of the Panel. The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. The Panel may question witnesses and attorneys at the members' discretion. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered.

(i) The determination of the Panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(j) If the Panel suspends a license or certificate, it shall do so by order and the suspension shall remain in effect for the period of time stated in the order, not to exceed the date a final order is issued by the Board in the underlying contested case proceeding. The Panel order must recite the factual and legal basis for imminent peril warranting temporary suspension.

(k) A temporary suspension under Texas Occupations Code §1103.5511 or §1104.211 shall not automatically expire after 45 days if the Board has scheduled a hearing on the contested case to take place within that time and the hearing is continued beyond the 45th day for any reason other than at the request of the Board.

(l) If credible and verifiable information that was not presented to the Panel at a temporary suspension hearing, which contradicts information that influenced the decision of the Panel to order a temporary suspension, is subsequently presented to the Panel with a motion for rehearing on the suspension, the chair of the Panel will schedule a rehearing on the matter. The chair of the Panel will determine, in the chair's sole discretion, whether the new information meets the standard set out in this subsection. A rehearing on a temporary suspension will be limited to presentation and rebuttal of the new information. The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. Panel members may question witnesses and attorneys. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered. Any temporary suspension previously ordered will remain in effect, unless the Panel holds a rehearing on the matter and issues a new order rescinding the temporary suspension.

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 23, 2024.

TRD-202403903
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3088

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SUBCHAPTER E. ALTERNATIVE DISPUTE RESOLUTION

22 TAC §157.31

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §157.31, Investigative Conference. The proposed amendments are made following TALCB's quadrennial rule review for this Chapter, to better reflect current TALCB procedures, and to simplify and clarify where needed.

The proposed amendments to §157.31 clarify the timing of when an acknowledgement form may be submitted to the Board.

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.

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 for certifying or licensing an appraiser or appraiser trainee and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

The statute affected by these amendments is Chapter 1103, Texas Occupations Code. No other statute, code or article is affected by the proposed amendments.

§157.31. Investigative Conference.

(a) The Board may request an applicant or respondent to schedule an investigative conference to discuss a pending license application or the allegations of a pending complaint.

(b) The applicant or respondent may choose to have the investigative conference:

(1) in person at the Board's office in Austin, Texas;

(2) by telephone;

(3) by video conference; or

(4) in writing.

(c) An applicant or respondent may, but is not required to, have an attorney or other advocate present at an investigative conference.

(d) An applicant or respondent will be provided with a Statement of Investigative Conference Procedures and Rights (IC Form) not later than three days before the date of the investigative conference. The applicant or respondent and the applicant's or respondent's attorney, if any, must acknowledge receipt of the IC Form by signing it and delivering it to the Board prior to [~~at the beginning of~~] the investigative conference.

(e) The Board will provide a copy of the investigative report to the applicant or respondent and the applicant's or respondent's representative(s), if any, not later than three days before the date of the investigative conference if the applicant or respondent and the applicant's or respondent's representative(s):

(1) Submit a written request for a copy of the investigative report not later than five days before the date of the investigative conference; and

(2) Sign the Board's confidentiality agreement prohibiting the re-release of the investigative report, without written permission of the Board or a court order, to anyone other than the:

(A) applicant;

(B) respondent;

(C) applicant's or respondent's supervisory appraiser, if any;

(D) applicant's or respondent's legal representative(s); or

(E) an expert witness for the applicant or respondent.

(f) Participation in an investigative conference is not mandatory and may be terminated at any time by any person.

(g) Recording Investigative Conferences. Any person may record an investigative conference by providing the notice required in this section.

(1) Notice Required.

(A) A person choosing to record an investigative conference must provide written notice to the other person(s) participating in the investigative conference three days before the date of the conference.

(B) The notice must state how the person intends to record the investigative conference.

(C) For purposes of this section, the term "written notice" includes a letter or e-mail.

(2) Audio Recordings. A person who chooses to make an audio recording of an investigative conference must provide:

(A) the recording equipment; and

(B) if requested by another person during or after the investigative conference, a copy of the audio recording at the recording person's expense within seven days after the date of the request.

(3) Recording by Court Reporter. A person who chooses to have a court reporter record an investigative conference does so at the person's own expense and must:

(A) allow any person who participates in the investigative conference to make corrections to the court reporter's transcript; and

(B) provide an electronic copy of the final transcript to all persons who participate in the investigative conference at the recording person's expense within seven days after the transcript is final.

(h) At the conclusion of the investigative conference, the Board staff may propose a settlement offer that can include administrative penalties and any other disciplinary action authorized by the Act or recommend that the complaint be dismissed.

(i) The respondent may accept, reject, or make a counter offer to the proposed settlement not later than ten (10) days following the date of the investigative conference.

(j) If the parties cannot reach a settlement not later than ten (10) days following the date of the investigative conference, the matter will be referred to the Director of TALCB or his or her designee to pursue appropriate action.

(k) In this section, the term "person" includes:

(1) an applicant for a license or registration;

(2) a respondent to a complaint; and

(3) the Board.

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 23, 2024.

TRD-202403904
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3088

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PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 343. CONTESTED CASE PROCEDURE

The Texas Board of Physical Therapy Examiners (board) proposes amending Chapter 343. Contested Case Procedures, Occupations Code. Specifically, the Board proposes amendments to §343.1. Definitions, §343.23. Hearings, §343.24. Payment of Costs for a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License, §343.26. Commutation of Time, §343.27. Probation, §343.28. Records Retention Schedule, §343.29. Failure To Appear at Informal Settlement Conference or Hearing, §343.35. Complaint Investigation and Disposition, §343.48. Dismissal of Complaint, §343.50. Application for Reinstatement of License, §343.51. Evaluation for Reinstatement, §343.52. Procedure upon Request for Reinstatement, §343.53. Board Action Possible upon Reinstatement of Revoked License, §343.55. Failure To Appear, and §343.56. Monitoring of Licensees. And proposes the repeal of §343.25. Continuance.

The amendments are proposed in order to provide clarity to the procedures for contested cases, to correct inaccurate and outdated references, and to conform the rules in Chapter 343 with the physical therapy provisions in Chapter 453, Occupations Code, with the administrative procedures in Chapter 2001, Government Code, and with Title 1 Texas Administrative Code. The repeal is proposed as the procedure is covered under the State Office of Administrative Hearings (SOAH) rules for hearings.

Section-by-Section Summary

Section 343.1. Definitions is amended to provide more accurate descriptions and references; to add definitions of Informal Settlement Conference (ISC), Investigation Committee, and Voluntary Surrender; and to reformat accordingly.

Section 343.23. Hearings is amended to correct references and eliminate redundancy of the sited sections of the Texas Government Code and the Texas Administrative Code.

Section 343.24. Payment of Costs for a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License is amended to correct the title to reflect that penalties not costs are assessed and that administrative penalties may be assessed if a licensee is found in violation of the Act and are payable in accordance with the final order.

Section 343.25. Continuance is repealed as the procedure is covered under SOAH administrative rules for hearings.

Section 343.26. Commutation of Time is amended to correct the title as the section deals with computation of time.

Section 343.27. Probation is amended to correct grammatical errors.

Section 343.28. Records Retention Schedule is amended to align terminology with the current agency records retention schedule.

Section 343.29. Failure To Appear at Hearing is amended to add the procedure for failure to appear at an Informal Settlement Conference and clarify that failure to appear at a State Office of Administrative Hearings (SOAH) shall result in a default judgment against the respondent.

Section 343.35. Complaint Investigation and Disposition is amended to align terminology (a) with Definitions in §343.1. (1) and correct terminology in (b)(2).

Section 343.48. Dismissal of Complaint is amended to replace "respondent has left the state" with "unable to locate" as a reason for complaint dismissal and to correct grammatical errors.

Section 343.50. Application for Reinstatement of License is amended to replace "application" with "request" and to designate the Investigations Committee for consideration of a request for reinstatement.

Section 343.51. Evaluation for Reinstatement is amended to include licenses that have been voluntarily surrendered and to eliminate the requirement for a sworn notarized statement as attestation degree of rehabilitation attained.

Section 343.52. Procedure upon Request for Reinstatement to designate the Investigations Committee for appearance by requestor for reinstatement.

Section 343.53. Board Action Possible upon Reinstatement of Revoked License is amended to include licenses that have been voluntarily surrendered and to include completion of a pending Agreed Order as a requirement for reinstatement.

Section 343.55. Failure To Appear is amended to include licenses that have been voluntarily surrendered.

Section 343.56. Monitoring of Licensees is amended to designate the agency for monitoring of licensees to ensure compliance to board orders.

Fiscal Note

Ralph A. Harper, Executive Director of the Executive Council of Physical Therapy & Occupational Therapy Examiners, has determined that for the first five-year period the amendments and repeal are in effect there would be no loss of revenue, and there would be no fiscal implication to units of local government as a result of enforcing or administering the rules.

Public Benefits and Costs

Mr. Harper has determined that for the first five-year period these amendments and repeal are in effect, the public benefit will be providing increased clarity of the procedures for a contested case. Additionally, there will be no cost to the public.

Local Employment Economic Impact Statement

The amendments and repeal are not anticipated to impact a local economy, so a local employment economic impact statement is not required.

Small and Micro-Businesses and Rural Communities Impact

Mr. Harper has determined that there will be no costs or adverse economic effects to small or micro-businesses or rural communities as a result of the amendments and repeal; therefore, an economic impact statement or regulatory flexibility analysis is not required.

Government Growth Impact Statement

During the first five-year period these amendments and repeal are in effect, the impact on government growth is as follows:

(1) The proposed rule amendments and repeal will neither create nor eliminate a government program.

(2) The proposed rule amendments and repeal will neither create new employee positions nor eliminate existing employee positions.

(3) The proposed rule amendments and repeal will neither increase nor decrease future legislative appropriations to the agency.

(4) The proposed rule amendments and repeal will neither require an increase nor a decrease in fees paid to the agency.

(5) The proposed rule amendments and repeal revise the language to existing regulation but does not create a new regulation.

(6) The proposed rule amendments and repeal will neither repeal nor limit an existing regulation.

(7) The proposed rule amendments and repeal will neither increase nor decrease the number of individuals subject to the rule's applicability.

(8) The proposed rule amendment and repeal will neither positively nor adversely affect this state's economy.

Takings Impact Assessment The proposed rule amendments and repeal will not impact private real property as defined by Tex. Gov't Code §2007.003, so a takings impact assessment under Tex. Gov't Code §2001.043 is not required.

Requirement for Rule Increasing Costs to Regulated Persons

Tex. Gov't Code §2001.0045, Requirement for Rule Increasing Costs to Regulated Persons, does not apply to this proposed rule because the amendments and repeal will not increase costs to regulated persons.

Public Comment

Comments on the proposed amendments and repeal may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 1801 Congress Ave, Suite 10.900, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register.*

22 TAC §§343.1, 343.23, 343.24, 343.26 - 343.29, 343.35, 343.48, 343.50 - 343.53, 343.55, 343.56

Statutory Authority

The amendments are proposed under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

Cross-reference to Statute

The proposed amendments implement provisions in Chapter 453, Subchapter H, Occupations Code that pertains to disciplinary action and procedure. No other statutes, articles, or codes are affected by the proposed amendments.

§343.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--The Texas Physical Therapy Practice Act, Occupations Code, Chapter 453 [~~Texas Civil Statutes, Article~~ 4512e].

(2) Agency--The Executive Council of Physical Therapy & Occupational Therapy Examiners [~~Board of Physical Therapy Examiners~~].

[(3) APTRA--The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 625213a].

(3) [(4)] Applicant--A qualified individual who presents application for licensure as a physical therapist or physical therapist assistant or for reinstatement of a previously suspended or revoked license.

(4) [(5)] Board--The Texas Board of Physical Therapy Examiners whose members [of the Board of Physical Therapy Examiners who] are appointed pursuant to Occupations Code, Chapter 453.051 [Texas Civil Statutes, Article 4512e].

(5) [(6)] Board order--A final decision of the board issued in a contested or uncontested proceeding [or in lieu of such proceeding], which may include findings of fact and conclusions of law, separately stated.

(6) [(7)] Complaint--A written statement of allegations filed with the board which includes a statement of the matters asserted, including any supporting documentation available, the filing of which may initiate a contested case proceeding.

(7) [(8)] Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the board [agency] after an opportunity for adjudicative hearing.

(8) [(9)] Disciplinary action--Imposition of a sanction by the board which may include reprimand, suspension, probation, or revocation of a license, or other appropriate requirements.

(9) [(10)] Executive director--The chief officer [executive director] of the Executive Council of Physical Therapy & Occupational Therapy Examiners [Board of Physical Therapy Examiners].

(10) Informal Settlement Conference (ISC)--A conference designed to resolve contested cases by informally disposing of matters by agreement and voluntary settlement without the need for a formal hearing at the State Office of Administrative Hearings (SOAH).

(11) Investigation Committee--A standing committee of the board that reviews complaint investigations with recommendation of appropriate action made to the board.

(12) [(11)] Licensee--A person who holds a license either permanent or temporary under the [Physical Therapy Practice] Act.

[(12) Moral turpitude--Baseness, vileness, or dishonesty of a high degree.]

(13) (No change.)

(14) Party--A [Each] person or a state agency named or admitted as a party in [with a sufficient legal, economic, or other interest to be named or admitted as such by the agency to] a contested case proceeding [before the agency].

(15) Probation--A period of time when a license is subject to conditions or limitations. [Each person whose license is suspended is placed on probation for the length of the suspension.]

(16) Reinstatement--To reactivate a license that was previously revoked or voluntarily surrendered. [The individual with a revoked license must demonstrate or supply evidence to the board of his or her rehabilitation or current fitness to hold a license. Reinstatement petitions shall be considered no sooner than 180 days after the revocation order becomes final and enforceable.]

(17) (No change.)

(18) Respondent--A person who has been made the subject of a formal or informal complaint alleging violation of the [Texas Physical Therapy Practice] Act, [or] rules, other laws or regulations, or orders of the board [Board of Physical Therapy Examiners].

(19) Revocation--The withdrawal or repeal of a license. [Revocation is established for minimum period of one year.]

(20) Staff--The investigative staff of the board [Board of Physical Therapy Examiners].

(21) (No change.)

(22) Voluntary surrender--The act of relinquishing a license at the will of the licensee in lieu of disciplinary action.

§343.23. Hearings.

[(a)] The State Office of Administrative Hearings (SOAH) shall conduct all administrative hearings of [in] contested cases [under the Administrative Procedure Act (APA)] that are before the board in accordance with Texas Government Code 2001 and Title 1 Texas Administrative Code.

[(b) Transcription of hearing. Each hearing will be recorded by a court reporter.]

[(1) The cost of the transcription shall be borne by the person making the request.]

[(2) A party who appeals a final decision of the board shall pay all of the cost of preparation of the original and any certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.]

§343.24. Payment of Penalties after [Costs for] a Contested Case Hearing Resulting in the Discipline of a Licensee or the Denial of an Application for License.

(a) (No change.)

(b) A person whose application for a license has been denied by the staff or a licensee who has been found in violation of the Act or rules as a result of a contested case hearing may [will] be required to pay administrative penalties [submit a fee for costs] to the board. Payment of penalties are due to the Board in accordance with the final order. [The costs will be those fees billed by SOAH to the board for conducting the hearing and rendering the proposal for final decision.]

§343.26. Computation [Commutation] of Time.

(a) (No change.)

(b) Extension. Unless otherwise provided by statute, the time for filing any pleading, motion, or request may be extended by order of the executive director or designee, upon written motion filed prior to the expiration of the applicable period of time for the filing of the same, showing that the need for extension is not caused by the neglect, indifference, or lack of diligence of the requesting party.

§343.27. Probation.

If [In] placing a person on probation whose license has been suspended, the board may impose such additional terms and conditions as it deems appropriate for the period of probation. The board shall specify the exact duration of the probationary period. Upon finding that a person placed on probation has failed to comply with the terms and condition of the board's order, the board may take [such] additional disciplinary action as it deems appropriate, following notice and hearing.

§343.28. Records Retention Schedule.

All investigations files [records] shall be maintained in accordance with the approved records retention schedule on file with the Texas State Library and Archives Commission.

§343.29. Failure To Appear at Informal Settlement Conference or Hearing.

(a) Informal Settlement Conference. Failure to respond to the allegations, either by personal appearance at the informal settlement conference or in writing, may result in the allegations being confirmed at the informal settlement conference and the highest proposed sanction being recommended to the board. The notice of the informal settlement conference shall be served by delivering a copy to the respondent or licensee in accordance with Texas Government Code §2001.054(c)(1), to the licensee's last known address of record as shown by agency records, not less than 10 days prior to the date of the conference. [~~Even though some or all of the parties or their duly authorized representatives should fail to appear, the board may consider fully the matter pending if notice has been given in accordance with this chapter. Such consideration shall be on the basis of any evidence admitted at the hearings and all pleadings, exhibits, briefs, and other materials presented in connection therewith.~~]

(b) State Office of Administrative Hearings (SOAH) - If a respondent fails to appear in person or by attorney on the day and at the time set for hearing in a contested case, regardless of whether an appearance has been entered, the judge shall, upon adequate proof that proper notice under the Texas Government Code chapter 2001 and Title 1 Texas Administrative Code Part 7 was served upon the defaulting party, enter a default judgment in the matter adverse to the respondent. [~~Absence of counsel shall not be good cause for a continuance or postponement of a cause when called for hearing, except that it be allowed in the discretion of the hearings examiner or board, upon cause shown or upon matters within the knowledge or information of the hearings examiner or board to be stated on the record.~~]

§343.35. Complaint Investigation and Disposition.

(a) Complaints shall be assigned a priority status in the following categories:

(1) those indicating that credible evidence exists showing a violation of the [~~Physical Therapy Practice~~] Act involving actual deception, fraud or injury to clients or the public or a high probability of immediate deception, fraud, or injury to clients or the public;

(2) those indicating that credible evidence exists showing a violation of the [~~Physical Therapy Practice~~] Act involving a high probability of potential deception, fraud, or injury to clients or the public;

(3) those indicating that credible evidence exists showing a violation of the [~~Physical Therapy Practice~~] Act involving a potential for deception, fraud, or injury to clients or the public;

(4) all other complaints.

(b) Not later than the 30th day after a complaint is received, the staff shall place a timeline for completion, not to exceed one year, in the investigative file and notify all parties to the complaint. Any change in the timeline must be noted in the file and all parties notified of the change not later than seven days after the change was made. For purposes of this rule, completion of an investigation in a disciplinary matter occurs when:

(1) (No change.)

(2) staff determines there is sufficient evidence to demonstrate a violation of the act, board rules, or board order and drafts proposed board order [~~formal charges~~].

(c) - (e) (No change.)

§343.48. Dismissal of Complaint.

(a) Complaints may be dismissed for the following reasons:

(1) (No change.)

(2) unable to locate [~~respondent has left the state~~];

(3) (No change.)

(4) other reasons which the Investigation Committee believe justify dismissal [~~are justification for dismission~~].

(b) Upon the decision of the Investigation Committee to dismiss a complaint, the person who filed the complaint is provided with a letter explaining why the complaint has been dismissed.

(c) (No change.)

§343.50. Request [~~Application~~] for Reinstatement of License.

(a) At the expiration of 180 days from the date of revocation, the Investigation Committee [~~board~~] may consider a request for reinstatement by the former licensee [~~(applicant)~~].

(b) The request for reinstatement must be submitted to the agency [~~board office~~] in writing and should include a short and plain statement of the reasons why the requestor [~~applicant~~] believes the license should be reinstated.

(c) Upon denial of any request [~~application~~] for reinstatement, the board may not consider a subsequent request [~~application~~] until the expiration of one year from the date of denial of the prior request [~~application~~].

(d) (No change.)

§343.51. Evaluation for Reinstatement.

In considering reinstatement of a revoked or voluntarily surrendered [~~suspended~~] license, the board will evaluate:

(1) the severity of the act which resulted in revocation or voluntary surrender of the license;

(2) the conduct of the applicant subsequent to the revocation or voluntary surrender of license;

(3) the lapse of time since revocation or voluntary surrender;

(4) (No change.)

(5) the degree of rehabilitation attained by the applicant as evidenced by [~~sworn notarized~~] statements sent directly to the board from qualified people who have personal and professional knowledge of the applicant; and

(6) (No change.)

§343.52. Procedure upon Request for Reinstatement.

(a) An applicant for reinstatement of a revoked license must personally appear before the Investigation Committee [~~board~~] at a scheduled date and time to show why the license should be reinstated.

(b) The [~~Upon submission of proof of past revocation of the applicant's license, the~~] applicant has the burden of proof to show present fitness and/or rehabilitation to practice physical therapy.

(c) Where the applicant's license has been revoked or voluntarily surrendered based on a finding, admission, or allegation that the applicant was unfit to practice physical therapy by reasons of intemperate use of alcohol or drugs, misappropriation of controlled substances, an adjudication of mental incompetence, or the existence of any mental disorder, the applicant must submit a written psychiatric or psychological evaluation or [~~and~~] written medical evaluation. Said evaluations shall be obtained solely at the applicant's expense and forwarded directly to the agency by the examiner. The psychiatric or psychological

evaluation must be prepared by a licensed psychiatrist or psychologist and the medical evaluation must be prepared by a licensed physician. Said reports shall include such information as the agency may specifically require with notice to the applicant.

(d) Upon receipt of a written request for reinstatement and all information required by subsection (c) of this section, the applicant will be notified of the [~~a~~] date and time of an appearance before the Investigation Committee [~~board~~].

§343.53. Board Action [~~Possible~~] upon Reinstatement of Revoked or Voluntarily Surrendered License.

After evaluation, the board may:

(1) - (2) (No change.)

(3) require the satisfactory completion of a pending Agreed Order, or a specific program or remedial education approved by the board [~~agency~~]; and

(4) (No change.)

§343.55. Failure To Appear.

An applicant for reinstatement of a revoked or voluntarily surrendered license who makes a commitment to appear before the board, and fails to appear at a hearing set with notice by the agency, shall not be authorized to appear before the board before the expiration of six months. For good cause shown, the executive director may authorize an exception to this rule.

§343.56. Monitoring of Licensees.

A licensee who is ordered by the board to perform certain acts will be monitored by the agency [~~board~~] to ensure that the required acts are completed per the order of the board.

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 20, 2024.

TRD-202403834
Ralph Harper
Executive Director
Texas Board of Physical Therapy Examiners
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 305-6900

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22 TAC §343.25

Statutory Authority

The repeal is proposed under Texas Occupation Code §453.102, which authorizes the board to adopt rules necessary to implement chapter 453.

Cross-reference to Statute

The proposed repeal is in accordance to provisions in Chapter 453, Subchapter H, Occupations Code that pertains to disciplinary action and procedure. No other statutes, articles, or codes are affected by the proposed repeal.

§343.25. Continuance.

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 26, 2024.

TRD-202403935
Ralph Harper
Executive Director
Texas Board of Physical Therapy Examiners
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 305-6900

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PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 537. PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS

22 TAC §§537.20, 537.22, 537.28, 537.30 - 537.32, 537.37, 537.39, 537.46, 537.47, 537.67

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §537.20, Standard Contract Form TREC No. 9-16, Unimproved Property Contract; §537.22, Standard Contract Form TREC No. 11-7, Addendum for "Back-Up" Contract; §537.28, Standard Contract Form TREC No. 20-17, One to Four Family Residential Contract (Resale); §537.30, Standard Contract Form TREC No. 23-18, New Home Contract (Incomplete Construction); §537.31, Standard Contract Form TREC No. 24-18, New Home Contract (Completed Construction); §537.32, Standard Contract Form TREC No. 25-15, Farm and Ranch Contract; §537.37, Standard Contract Form TREC No. 30-16, Residential Condominium Contract (Resale); §537.39, Standard Contract Form TREC No. 32-4, Condominium Resale Certificate; §537.46, Standard Contract Form TREC No. 39-9, Amendment to Contract; §537.47, Standard Contract Form TREC No. 40-10, Third Party Financing Addendum; and new rule §537.67, Standard Contract Form TREC No. 60-0, Addendum for Section 1031 Exchange 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).*

Paragraph 4 is amended to add the term "geothermal" to the definition of Natural Resource Leases as a result of a 2023 law change that stipulates property owners own the geothermal energy below the surface of their land and can drill or produce that energy and associated resources.

To be consistent with a recently updated Texas Department of Insurance procedural rule, Paragraph 6C(1) is amended to include the option of providing the T-47.1 Declaration (which does not need to be notarized)-in lieu of the T-47 Affidavit-when the

Seller furnishes the Buyer an existing survey. In lieu of providing a "no survey required" option, Paragraph 6C(2) is amended to read "Buyer may obtain a new survey" instead of "Buyer shall obtain a new survey", and adds that if the Buyer ultimately fails to obtain the survey, the Buyer does not have the right to terminate the contract under Paragraph 2B of the Third Party Financing Addendum because the survey was not obtained.

Because Texas law requires a seller to provide a buyer a copy of any mold remediation certificate issued during the five years preceding the sale of the property, new Paragraph 6E(11) is added to provide information regarding this requirement (except in the Unimproved Property Contract).

Paragraph 6E(12) is modified to add specific examples of the types of notices that should be listed in the paragraph and to add a caution that Seller's failure to provide required notices may provide Buyer with certain remedies, like the ability to terminate the contract. For consistency with that paragraph and with applicable statutory requirements, Paragraphs 6E(4), (7), and (9) are amended to remove references to a separate related addendum

Paragraph 8B is changed to add a statement that brokers' fees are not set by law and are negotiable.

In light of recent discussions surrounding broker compensation, Paragraph 12A(1)(a) and 12A(2) adds that each party pays the brokerage fees that they each have agreed to pay. Paragraph 12A(1)(b) is amended to allow for a specific seller contribution to the buyer's brokerage fees. A new Paragraph 12A(1)(c) has been added to separately address other seller contributions (that was previously in Paragraph 12A(1)(b)) and the prior language that specified the order in which any contribution was to be paid, as well as a limitation on the type of fee that could be paid, is removed. Conforming changes are also made in the Amendment to Contract.

The title of Paragraph 20 is changed to "Federal Requirements" from "Federal Tax Requirements." In new Paragraph 20B of the Farm and Ranch contract, information regarding the obligations related to the federal Agriculture Foreign Investment Disclosure Act has been added.

The compensation disclosure in the Broker Information section of the contracts (except for the Farm and Ranch Contract) has been modified to remove the parenthetical referencing the MLS and to add checkboxes to allow for the fee to be reflected either as a percentage or a dollar amount.

In the Third Party Financing Addendum, to ensure the buyer is terminating appropriately, Paragraph 2A, Buyer Approval, has been changed to require both a notice of termination and a copy of a written statement of the lender's determination like in Paragraph 2B, Property Approval. The language in Paragraph 2B is modified because the language related to notice of termination timing was different than in other contract provisions and was causing confusing. "Requirements" in Paragraph 4 is made singular and a conforming change is made to a paragraph citation.

The Condominium Resale Certificate is amended to conform the language in Paragraphs K and L with section 82.157, Texas Property Code.

In the Unimproved Property contract, Paragraph 3D is amended to include the same sales price adjustment language as in the Farm and Ranch contract. A dollar sign is also added to Paragraph 3D in the Farm and Ranch contract.

Out of concern about confusion and improper use of Paragraph 11, Special Provisions, by license holders, the Addendum for "Back-Up" Contract is modified to provide more clarity on the timing and payment of the earnest money and option fee by incorporating similar language from Paragraph 5 of the contract and by addressing timing and payment of additional fees.

The committee drafted a new Addendum for Section 1031 Exchange that allows the seller or buyer to disclose an intent to use the subject property as a 1031 exchange and includes a statement that the parties will reasonably cooperate with one another. Providing this as an addendum, rather than in the contract, allows the parties to use it when applicable without causing unnecessary confusion. A reference to the new Addendum for Section 1031 Exchange is also added to Paragraph 22 of the contract.

Abby Lee, Deputy 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. 9-17 [~~9-16~~], Unimproved Property Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 9-17 [~~9-16~~] approved by the Commission in 2024 [~~2022~~] 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. 11-8 [~~11-7~~], Addendum for "Back-Up" Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 11-8 [~~11-7~~] approved by the Commission in 2024 [~~2012~~] for mandatory use as an addendum to be attached to promulgated forms of contracts which are second or "back-up" contracts.

§537.28. Standard Contract Form TREC No. 20-18 [~~20-17~~], One to Four Family Residential Contract (Resale).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 20-18 [~~20-17~~] approved by the Commission in 2024 [~~2022~~] for mandatory use in the resale of residential real estate.

§537.30. Standard Contract Form TREC No. 23-19 [~~23-18~~], New Home Contract (Incomplete Construction).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 23-19 [~~23-18~~] approved by the Commission in 2024 [~~2022~~] for mandatory use in the sale of a new home where construction is incomplete.

§537.31. Standard Contract Form TREC No. 24-19 [~~24-18~~], New Home Contract (Completed Construction).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 24-19 [~~24-18~~] approved by the Commission in 2024 [~~2022~~] for mandatory use in the sale of a new home where construction is completed.

§537.32. Standard Contract Form TREC No. 25-16 [~~25-15~~], Farm and Ranch Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 25-16 [~~25-15~~] approved by the Commission in 2024 [~~2022~~] for mandatory use in the sale of a farm or ranch.

§537.37. Standard Contract Form TREC No. 30-17 [~~30-16~~], Residential Condominium Contract (Resale).

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 30-17 [~~30-16~~] approved by the Commission in 2024 [~~2022~~] for mandatory use in the resale of a residential condominium unit.

§537.39. Standard Contract Form TREC No. 32-5 [~~32-4~~], Condominium Resale Certificate.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 32-5 [~~32-4~~] approved by the Commission in 2024 [~~2015~~] for voluntary use as a condominium resale certificate.

§537.46. Standard Contract Form TREC No. 39-10 [~~39-9~~], Amendment to Contract.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 39-10 [~~39-9~~] approved by the Commission in 2024 [~~2022~~] for mandatory use as an amendment to promulgated forms of contracts.

§537.47. Standard Contract Form TREC No. 40-11 [~~40-10~~], Third Party Financing Addendum.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form, TREC No. 40-11 [~~40-10~~] approved by the Commission in 2024 [~~2022~~] for mandatory use as an addendum to be added to promulgated forms of contracts when there is a condition for third party financing.

§537.67. Standard Contract Form TREC No. 60-0, Addendum for Section 1031 Exchange.

The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 60-0 approved by the Commission in 2024 for mandatory use as an addendum to be attached to promulgated contract forms where either party intends to use the property to accomplish a Section 1031 Exchange.

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 23, 2024.

TRD-202403895
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 936-3057

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 17. TEXAS STATE SOIL AND WATER CONSERVATION BOARD

CHAPTER 517. FINANCIAL ASSISTANCE

SUBCHAPTER A. CONSERVATION ASSISTANCE

31 TAC §517.3

The Texas State Soil and Water Conservation District Board proposes an amendment to the existing rule Title 31, Part 17, Chapter 517, Subchapter A, §517.3, which outlines that conservation assistance funds can be used to support districts in administering conservation programs, including covering some travel expenses, within specified limits.

Fiscal Note

Kenny Zajicek, Fiscal Officer, has determined that for each year of the first five years that the proposed amended rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments due to enforcing or administering the rule.

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years that the proposed amended rule is in

effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

Public Benefit and Cost Note

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years the proposed amended rule is in effect, the anticipated public benefit will be to protect the public by establishing and maintaining a high standard of integrity, skills, and practice.

Local Employment Impact Statement

Kenny Zajicek, Fiscal Officer, has determined that the proposed amended rule will not impact local employment or economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

Economic Impact Statement and Regulatory Flexibility Analysis

Kenny Zajicek, Fiscal Officer, has determined that there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities because of the proposed amended rule. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

Takings Impact Assessment

Kenny Zajicek, Fiscal Officer, has determined that no private real property interests are affected by the proposed amended rule. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

Public Benefit/Cost Note.

Kenny Zajicek, Fiscal Officer, has determined, under Government Code §2001.024(a)(5), that for the first five-year period, the proposed amended rules are in effect, the public benefit will be an efficient use of state resources. He further has determined there will be no probable economic cost to persons required to comply with the proposed amendedrule.

Government Growth Impact Statement

For the first five years that the proposed amended rule would be in effect, it is estimated that; the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

Environmental Rule Analysis

The proposed amended rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is 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.

Request for Public Comments

The Texas State Soil and Water Conservation Board invites comments on the proposed amended rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504, or by e-mail to hbounds@TSSWCB.Texas.Gov Comments will be accepted for 30 days following publication in the *Texas Register.* Comments must be received within 30 days after the publication of this proposal to be considered.

Statutory Authority

The amendment is proposed under Texas Agriculture Code, Title 7, Chapter 201, Subchapter B, State Soil and Water Conservation Board, §201.020, which provides the State Board with the authority to adopt rules as necessary for the performance of its functions under Chapter 201, Texas Agriculture Code.

No other code, article or statutes are affected by this amendment.

§517.3. Use of Funds.

Funds appropriated from the general revenue fund and other sources for conservation assistance may be used by the state board to provide funds to districts on a matching basis, to assist them with expenses incurred through the administration and implementation of conservation programs and activities. Indirect administration expenses are an allowable use of conservation assistance funds for reimbursement of certain travel expenses required to conduct official district business at meetings or events sponsored by the State Board or a local soil and water conservation district. Use of conservation assistance funds for indirect administration is limited to reimbursement of mileage and actual expenses incurred for lodging, not to exceed the maximum allowable rates as established in the General Appropriations Act for state travel.

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 26, 2024.

TRD-202403918
Heather Bounds
Government Affairs Specialist
Texas State Soil and Water Conservation Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (254) 773-8225

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31 TAC §517.10

The Texas State Soil and Water Conservation District Board proposes an amendment to the existing rule Title 31, Part 17, Chapter 517, Subchapter A, §517.10, broadly identifying that the State Board will establish deadlines and removing the previous deadlines of May 15th and August 31st as well as the requirement to claim 2/3 of the original allocation of funds. The amendment will specify that exceptions can only be made by the board or executive director with permission from the board.

Fiscal Note

Kenny Zajicek, Fiscal Officer, has determined that for each year of the first five years that the proposed amended rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments due to enforcing or administering the rule.

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years that the proposed amended rule is in

effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

Public Benefit and Cost Note

Kenny Zajicek, Fiscal Officer, has also determined that for each year of the first five years the proposed amended rule is in effect, the anticipated public benefit will be to protect the public by establishing and maintaining a high standard of integrity, skills, and practice.

Local Employment Impact Statement

Kenny Zajicek, Fiscal Officer, has determined that the proposed amended rule will not impact local employment or economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

Economic Impact Statement and Regulatory Flexibility Analysis

Kenny Zajicek, Fiscal Officer, has determined that there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities because of the proposed amended rule. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

Takings Impact Assessment

Kenny Zajicek, Fiscal Officer, has determined that no private real property interests are affected by the proposed amended rule. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

Public Benefit/Cost Note.

Kenny Zajicek, Fiscal Officer, has determined, under Government Code §2001.024(a)(5), that for the first five-year period, the proposed amended rule are in effect, the public benefit will be an efficient use of state resources. He further has determined there will be no probable economic cost to persons required to comply with the rule.

Government Growth Impact Statement

For the first five years that the proposed amended rule would be in effect, it is estimated that; the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

Environmental Rule Analysis

The proposed amended rule is not a "major environmental rule" as defined by Government Code §2001.0225. The proposed rule is 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.

Request for Public Comments

The Texas State Soil and Water Conservation Board invites comments on the proposed new rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504, or by e-mail to hbounds@TSSWCB.Texas.Gov Comments will be accepted for 30 days following publication in the *Texas Register.* Comments must be received within 30 days after the publication of this proposal to be considered.

Statutory Authority

The amendment is proposed under Texas Agriculture Code, Title 7, Chapter 201, Subchapter B, State Soil and Water Conservation Board, §201.020, which provides the State Board with the authority to adopt rules as necessary for the performance of its functions under Chapter 201, Texas Agriculture Code.

No other code, article or statutes are affected by this amendment.

§517.10. Deadlines.

[~~(a)~~] The state board will hereby establish [~~establishes the following~~] deadlines for all claims for conservation assistance funds.

[~~(1) By May 15, districts must have claimed 2/3 of their original annual allocation of conservation funds.~~]

[~~(2) By August 31, districts must have all claims for conservation assistance funds in the state office at Temple.~~]

[~~(b)~~] Exceptions to these deadlines can only be made by the state board or the executive director with permission of the state board on a case-by-case basis.

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 26, 2024.

TRD-202403919
Heather Bounds
Government Affairs Specialist
Texas State Soil and Water Conservation Board
Earliest possible date of adoption: October 6, 2024
For further information, please call: (254) 773-8225

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION
SUBCHAPTER HH. MIXED BEVERAGE TAXES

34 TAC §3.1001

The Comptroller of Public Accounts proposes amendments to §3.1001, concerning mixed beverage gross receipts tax. The comptroller amends this section to reflect the changes in Alcoholic Beverage Code, §§28.1001 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.01 (Authorized Activities), 32.15 (Removal of Beverages from Premises), 32.155 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.17 (Cancellation of Suspension of Permit; Grounds), and 57.01 (Authorized Activities),

made by House Bill 1024, 87th Legislature, 2021, effective May 12, 2021. The comptroller also amends the section throughout to implement House Bill 1545, 86th Legislature, 2019, effective September 1, 2021, which updated the definition of "permittee" in Tax Code, §183.001 (Definitions) and eliminated the distinction between ale, beer, or malt liquor which are now referred to as a malt beverage. This change is made throughout the section. The comptroller further amends this section throughout to add statutory citations.

The comptroller amends subsection (a)(2) by adding clarification language to define a bad debt as uncollectible. In addition, the comptroller moves language related to the requirements for claiming a bad debt to subsection (n) to be consistent with Tax Code, §183.027 (Credits and Refunds for Bad Debts). The comptroller amends subsection (a)(3) to delete language related to acceptable payment methods to purchase alcoholic beverages. Only distributors, manufactures, and retailers have restrictions under the Alcoholic Beverage Code related to acceptable types of payments. The comptroller also amends subsection (a)(8) to update the definition of the term "permittee." House Bill 1545 consolidated, repealed, and created certain licenses and permits to streamline the permitting process. In addition, the comptroller amends language to be consistent with the definition of Permittee and Licensee as defined in the Alcoholic Beverage Code §1.04 (11) and (16) (Definitions).

The comptroller deletes subsection (b)(4), a graphic related to separate tax disclosure statements, as it is available on the comptroller's website.

The comptroller deletes subsection (c)(1)(I), to delete language related to temporary permits, as only one temporary permit exists within the definition of permittee based on changes made from House Bill 1545. The comptroller renumbers all subsequent paragraphs accordingly.

The comptroller amends subsection (e) to delete redundant language for a holder of a temporary permit to report and remit mixed beverage gross receipts tax as they are included in the definition of "permittee" provided by subsection (a)(8).

The comptroller amends subsection (f) to add new paragraph (8) to include alcoholic beverages sold by a permittee for off-premises consumption in the list of items excluded from mixed beverage gross receipts tax. House Bill 1024 amended the Alcoholic Beverages Code to allow permittees to sell alcoholic beverages for off-premise consumption. Only alcoholic beverages sold for on-premises consumption by a permittee are taxed under Tax Code, §183.021 (Tax imposed on Gross Receipts of Permittee from Mixed Beverages). Because these beverages are for off-premises consumption, the comptroller interprets this to mean these sales are not subject to the mixed beverage gross receipts tax. The comptroller renumbers all subsequent paragraphs accordingly.

The comptroller amends subsection (n)(1) to add new subparagraphs (A) through (C) with language moved from subsection (a)(2). The new subparagraphs are consistent with Tax Code, §183.027.

The comptroller amends subsection (o)(3), to add average pour figures the comptroller may accept for malt beverages and wine in the absence of records or evidence made available for audit. These presumptions are recognized and accepted in the depletion-analysis methodology by the comptroller for auditing mixed beverage taxpayers. *See e.g.*, Comptroller Decision No. 117,284 (2021).

Brad Reynolds, Chief Revenue Estimator, 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.

Mr. Reynolds also has determined that the proposed amended rule would benefit the public by conforming the rule to current statute and improving readability. 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 amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no anticipated significant 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 78711-3528. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register.*

The comptroller proposes the amendments under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture) 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 (State Taxation).

The amendments implement Tax Code, §183.021 (Tax Imposed on Gross Receipts of Permittee from Mixed Beverages) and Alcoholic Beverage Code, §§28.1001 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.01 (Authorized Activities), 32.15 (Removal of Beverages from Premises), 32.17 (Cancellation of Suspension of Permit; Grounds), 32.155 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 57.01 (Authorized Activities).

§3.1001. Mixed Beverage Gross Receipts Tax.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Alcoholic beverage--Alcohol, or any beverage containing more than 0.5% of alcohol by volume, which is capable of use for beverage purposes, either alone or diluted.

(2) Bad debts--The unpaid portion of the gross receipts on sales or services of mixed beverages that are uncollectible by the permittee. [~~that have been charged off the books as a bad debt and that are deducted for federal tax purposes during the same or subsequent reporting period.~~]

(3) Cash or ticket bar--A bar at a special function at which guests can purchase alcoholic beverages. [~~Payments for the alcoholic beverages can be made by using cash, credit cards, or debit cards, or by redeeming tickets that are purchased by guests.~~]

(4) Complimentary alcoholic beverage--An alcoholic beverage served without any consideration paid to the permittee.

(5) Mandatory gratuity charge--Any amount required by the permittee in excess of the charge for the sale of alcoholic beverages.

(6) Mixed beverage--A serving of a beverage composed in whole or in part of an alcoholic beverage in a sealed or unsealed con-

tainer of any legal size for consumption on the premises where served or sold by a permittee.

(7) Open bar--A bar at a special function at which alcoholic beverages have been paid for by the host or are prepaid through an admission fee. This differs from the provision of complimentary alcoholic beverages in that the alcoholic beverages are purchased by the host or donated to the host for the purpose of being served for free at the special function.

(8) Permittee--A person who holds any of the following permits issued by the Texas Alcoholic Beverage Commission: a mixed beverage permit, private club registration permit, private club exemption certificate permit, private club registration permit with a retailer late hours certificate, nonprofit entity temporary event permit, private club registration permit with a food and beverage certificate, mixed beverage permit with a late hours certificate, mixed beverage permit with a food and beverage certificate, or distiller's and rectifier's permit. The term includes an agent, servant, or employee of that person. [~~A person, agent, or the officer, director, manager, or managing general partner of an entity that is the holder of a mixed beverage permit, a mixed beverage late hours permit, a mixed beverage permit holding a food and beverage certificate, a daily temporary mixed beverage permit, a private club registration permit, a private club exemption certificate permit, a private club late hours permit, a daily temporary private club permit, a private club registration permit holding a food and beverage certificate, a caterer's permit, or a rectifier's and distiller's permit issued by the Texas Alcoholic Beverage Commission.~~]

(9) Qualified employees--Employees who customarily and regularly provide the service upon which a gratuity is based, including, but not limited to, waiters, waitresses, busboys, service bartenders, wine stewards, and maîtres d'hôtel. The term does not include janitorial help, chefs, cashiers, or dishwashers.

(10) Reasonable mandatory gratuity charge--A mandatory gratuity charge that does not exceed 20%.

(11) Source record--A dated customer service check or ticket; a dated cash register receipt, if coded to reflect all information required by subsection (k) of this section; or the equivalent of a dated customer service check or a dated cash register receipt, subject to approval by the comptroller.

(12) Temporary membership card--A card printed and sold to a private club by the Texas Alcoholic Beverage Commission to be sold by the private club to an individual that entitles the individual to all the privileges of membership in the private club for a period not to exceed three days. The card also entitles the holder to bring not more than three persons into the private club as the holder's guests.

(13) Voluntary gratuity--An amount added to the bill by the purchaser or money given freely by the purchaser over and above the price charged for the sale or service of alcoholic beverages.

(14) Walked checks or tabs--An industry term that refers to the instance of a customer that on a particular business day consumes alcoholic beverages and leaves the permittee's premises without paying or providing the appropriate consideration for the alcoholic beverages. These differ from bad debts in that no agreement exists to extend credit to the customer; and these differ from complimentary alcoholic beverages in that the intent is to sell the alcoholic beverages and not be given away as complimentary alcoholic beverages.

(b) Mixed beverage gross receipts tax. Effective January 1, 2014, the rate of the tax is reduced from 14% to 6.7%. The tax is imposed on the gross receipts of a permittee received from the sale, preparation, or service of alcoholic beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee. The mixed beverage gross receipts tax is imposed in addition to the mixed beverage sales tax imposed under Tax Code, Chapter 183, Subchapter B-1 (Mixed Beverage Sales Tax).

(1) Gross receipts tax imposed on permittee, not customer. The mixed beverage gross receipts tax is a tax on gross receipts. The tax may not be separately charged to or paid by the customer and cannot be considered included in the gross receipts amount. A receipt, bill, or other invoice for the sale or service of alcoholic beverages may not include a charge labeled a "Tax Reimbursement."

(2) Monthly mixed beverage gross receipts tax reports. Each permittee must file a monthly mixed beverage gross receipts tax report on or before the 20th day of the following month even if no sales or services of alcoholic beverages were made during the month. The Texas Mixed Beverage Gross Receipts Tax report is due in addition to the Texas Mixed Beverage Sales Tax report required to be filed under Tax Code, Chapter 183, Subchapter B-1, and the Texas Sales and Use Tax report required to be filed under Tax Code, Chapter 151 (Limited Sales, Excise, and Use Tax).

(3) Separate tax disclosure statement. For informational purposes only, a permittee may add a separate statement on a customer's invoice, bill, or other receipt that is not shown as part of the charges to the customer and that clearly discloses:

(A) the amount of mixed beverage gross receipts tax to be paid by the permittee to the comptroller on that sale; or

(B) the total amount of mixed beverage gross receipts tax to be paid by the permittee to the comptroller combined with the amount of mixed beverage sales tax collected by the permittee to be remitted to the comptroller on that sale.

[~~(4) Examples of separate tax disclosure statements.~~] [~~Figure 34 TAC §3.1001(b)(4)~~]

(c) Taxable mixed beverage gross receipts.

(1) The mixed beverage gross receipts tax base includes, but is not limited to, receipts for the following items:

(A) receipts from the sale or service of alcoholic beverages;

(B) receipts from the sale or service of nonalcoholic beverages that are mixed and consumed with alcoholic beverages on the permittee's premises;

(C) receipts from cover charges, door charges, entry fees, or admission fees when the Texas Alcoholic Beverage Commission has determined that the collection of the cover charge, door charge, entry fee, or admission fee is in violation of the Texas Alcoholic Beverage Commission rules or regulations. In this instance the tax base is the entire receipts from the cover charge, door charge, entry fee, or admission fee plus the reduced sales or service prices received for the alcoholic beverages;

(D) the normal selling price of alcoholic beverages served with meals with no separate charge. If the specific alcoholic beverage is being sold or served at a reduced price at the same time as the meal, the tax base for the alcoholic beverage is the reduced price;

(E) any portion of a reasonable mandatory gratuity charge that is not disbursed to qualified employees;

(F) the entire mandatory gratuity charge when in excess of 20%, regardless of how the gratuity is disbursed;

(G) miscellaneous charges in conjunction with the sale or service of alcoholic beverages such as bar set-up fees, bartender fees, corkage fees, maîtres d'hôtel charges, etc.;

(H) all sales or services of alcoholic beverages by caterers; and

[~~(I) all sales or services of alcoholic beverages sold or served by the holder of a temporary permit listed in subsection (a)(8) of this section or by the holder of a beer and wine only temporary permit issued to a mixed beverage permittee; and~~]

(I) [~~(J)~~] all sales of coupons, tokens, tickets, etc., that are redeemed or used in any manner to purchase or pay for the sale or service of an alcoholic beverage.

(2) Thefts of money or legal tender received from the sale or service of alcoholic beverages are not deductible from the mixed beverage gross receipts tax base.

(d) Private clubs, special events, and functions. The gross receipts from alcoholic beverages served at special events or functions, such as golf or tennis tournaments at private clubs when a lump-sum charge entitles the member or guest to various items such as green fees, food, alcoholic beverages, golf cart rentals, etc., shall be computed by one of the following methods.

(1) The club shall maintain documentation that shows the normal cost to a member or guest for each of the items provided for the lump-sum charge. The permittee may then compute the percentage of the total of all the charges attributable to the sale or service of the alcoholic beverages. This percentage is then applied to the actual lump-sum amount paid by the member or guest to determine the amount of gross receipts subject to the mixed beverage gross receipts tax. For example, if the total of all the items would normally cost $300 and the permittee estimates that the portion attributable to the sale or service of alcoholic beverages is $30, then 10% of the actual lump-sum amount would be reported as subject to the mixed beverage gross receipts tax. If the lump-sum amount paid by the member or guest is $200, then the mixed beverage gross receipts tax base would be $20. The documentation used by the permittee is subject to review by the comptroller's personnel and any amounts determined to be inaccurate or unreasonable may be adjusted.

(2) The permittee may choose to use the normal sales or service prices of the alcoholic beverages as the tax base for the mixed beverage gross receipts tax.

(e) Nonprofit organizations holding fundraising and other special events where 100% of the net profit of the event goes to the nonprofit organization. Nonprofit organizations with an IRS Section 501(c)(3), (4), (8), (10), or (19) status who are permittees, [~~including organizations who have been issued a temporary permit,~~] are responsible for paying the mixed beverage gross receipts tax as follows:

(1) if tickets are sold to an event with an open bar, the nonprofit organization owes mixed beverage gross receipts tax on the cost to the organization of any alcoholic beverages purchased for the event;

(2) if tickets are sold to an event with an open bar and the alcoholic beverages are donated to the nonprofit organization, the nonprofit organization does not owe mixed beverage gross receipts tax or use tax as provided by Tax Code, Chapter 151, on the donated alcoholic beverages, but owes mixed beverage gross receipts tax on the cost of any alcoholic beverages purchased for the event;

(3) if an event is one with a cash or ticket bar (with or without an entry fee), the nonprofit organization owes mixed beverage gross receipts tax on the total receipts from the sale and service of alcoholic beverages;

(4) if an event is one with no entry fee and an open bar, the nonprofit organization does not owe mixed beverage gross receipts tax, but owes use tax as provided by Tax Code, Chapter 151, on the cost of any alcoholic beverages purchased by the organization for the event.

(f) Items excluded from the mixed beverage gross receipts tax base. The mixed beverage gross receipts tax does not apply to receipts for the items described in this subsection.

(1) Complimentary alcoholic beverages. Use tax as provided by Tax Code, Chapter 151, is due on the taxable ingredients of the complimentary alcoholic beverages. A serving of an alcoholic beverage shall not be a complimentary alcoholic beverage if any consideration is paid to the permittee, which may include, but is not limited to, the following: the alcoholic beverage is served in connection with food or any other thing sold to the recipient or an entertainment or entry fee is charged that includes one or more drink coupons or tickets. Any alcoholic beverage served under the identified or similar conditions is subject to the gross receipts tax, computed on the basis of the normal charge for the sale or service of such alcoholic beverage.

(2) Complimentary alcoholic beverages served during promotional periods such as happy hours at hotels or motels. If, however, there is an increase in guest room rates attributable to the promotional periods, the comptroller will have the option to tax either the increase in the room rate under Tax Code, Chapter 156 (Hotel Occupancy Tax), or assess use tax on the taxable ingredients of the complimentary drinks. The comptroller will have the authority to use information such as the room rates at comparable hotels and motels in the area to determine if an increased rate is attributable to the promotional period of alcoholic beverages.

(3) Complimentary alcoholic beverages served to holders of free drink cards or free drink tokens, for which no consideration was paid to the permittee.

(4) Voluntary gratuities.

(5) Reasonable mandatory gratuity charges, subject to the requirements of subsection (i)(1) of this section.

(6) Walked checks or tabs.

(7) Receipts from cover charges, door charges, entry fees, or admission fees that are for entertainment, food specials, and other purposes, and receipts from the sale of temporary membership cards. Sales tax as provided by §3.298 of this title (relating to Amusement Services) is due on these receipts.

(8) Alcoholic beverages sold by a permittee for off-premises consumption.

(9) [~~(8)~~] Bad debts. For more information on bad debt refunds or credits, refer to subsection (n) of this section.

(10) [~~(9)~~] Mixed beverage sales taxes. Mixed beverage sales taxes are not part of the mixed beverage gross receipts tax base. A permittee who sells mixed drinks with mixed beverage sales tax included in the sales price should deduct the mixed beverage sales tax before calculating the mixed beverage gross receipts tax base.

(g) Alcohol loss. No mixed beverage gross receipts tax is due on alcoholic beverages destroyed due to spillage or breakage.

(h) Inventory for cooking. No mixed beverage gross receipts tax is due on alcoholic beverages used in cooking.

(1) Purchases. Purchases of alcoholic beverages used in cooking must be documented either:

(A) by purchase invoices that have such beverages clearly denoted by either the seller or purchaser; or

(B) by separate purchase invoice.

(2) Storage. Alcoholic beverages used in cooking may be stored with regular bar stock or in a separate storage area.

(3) Use. The withdrawal from inventory of alcoholic beverages used in cooking must be recorded at the time of withdrawal on a service check or other permanent source record. Use tax as provided by Tax Code, Chapter 151, is not due on alcoholic beverages used in cooking.

(i) Mandatory gratuity charges.

(1) Reasonable mandatory gratuity charges are excluded from the mixed beverage gross receipts tax base if they are:

(A) separated from the sales price of the alcoholic beverage served;

(B) identified as a tip or gratuity by any reasonable means, including such terms as service fee or service charge; and

(C) disbursed to qualified employees. Any portion of a reasonable mandatory gratuity charge that is retained by the employer is included in the mixed beverage gross receipts tax base.

(2) Mandatory gratuity charges in excess of 20%. If a mandatory gratuity charge exceeds 20% then the entire mandatory gratuity charge is included in the mixed beverage gross receipts tax base regardless of how the gratuity is disbursed.

(j) Record requirement. Records required by the comptroller for mixed beverage permittees must be kept for a minimum of four years and throughout any period in which any tax, penalty, or interest may be assessed, collected, or refunded by the comptroller, or in which an administrative hearing or judicial proceeding is pending. Records must be made available upon request within a reasonable time for examination by the comptroller or authorized agents or employees. The records, in general, must be contemporaneous and must reflect the total gross receipts from the sale or service of alcoholic beverages and those associated services that are subject to the gross receipts tax, as provided by subsections (c), (d) and (e) of this section. Records may be written documents or their electronic equivalents. Permittees must contact the Texas Alcoholic Beverage Commission for information concerning Texas Alcoholic Beverage Commission record keeping requirements.

(k) Source records.

(1) The information described in this subsection is required to be printed on a source record in a manner that makes such information clearly evident or by a system of symbols (codes) if such symbols and their meaning are printed on the source record or maintained on the licensed premises.

(A) Each individual serving of an alcoholic beverage and the price charged. When using service checks, it is permissible to make one entry on a service check for more than one individual serving if all of the servings are of the same type (e.g., 3 Scotch & Water @ $2.00 = $6.00). If all of the servings are not of the same type, a separate entry must be made on the service check for each type of service (e.g., 3 Scotch & Water @ $2.00 = $6.00, 2 Rum & Coke @ $2.00 = $4.00). When using a cash register only, regardless of the type of service, each individual serving must be rung up separately. When using a combination of service checks and a cash register, it is not necessary to itemize each serving on the cash register tape if all the required information is shown on the service check.

(B) For an alcoholic beverage not served as an individual separate serving, the unit of the serving used and the price charged. When using service checks, units of servings that are more than an individual separate serving shall be recorded as such (e.g., 2 pitchers of a malt beverage [~~beer~~] @ $3.25 = $6.50, 1 pitcher of daiquiri @ $6.00 = $6.00). When using a cash register only, each unit of serving which is more than an individual separate serving must be rung up separately, with the price list identifying the unit of serving. When using a combination of service checks and a cash register, it is not necessary to itemize each serving on the cash register tape if all the required information is shown on the service check.

(C) Each separate serving or other unit shall be clearly identified as to the kind of drink (e.g., daiquiri, tequila sunrise) or class of beverage (e.g., malt beverage [~~beer~~], wine, whiskey). If a cash register does not have sufficient keys for the classification, the price list used for identifying the units of servings must also identify the kinds of servings.

(D) The date of the transaction. For this purpose the "date" begins as of 3:00 a.m. one day and continues until 3:00 a.m. the next day.

(E) Complimentary alcoholic beverages, which shall be recorded on service checks only. A check must be prepared for each individual or party served. The check should be prepared as if the service of the complimentary alcoholic beverage was a normal sale and then clearly marked as being complimentary. The service checks should be grouped daily and filed with the daily summary showing the information on the summary as required by subsection (l) of this section.

(F) Mandatory gratuity charges that exceed 20% of the charge for alcoholic beverages must be recorded and identifiable on a source record. A reasonable mandatory gratuity charge must be recorded and identifiable on the source record only if the gratuity is disbursed to recipients other than qualified employees, including, for example, owners, club managers with no direct involvement in the particular event, janitorial help, chefs, cashiers, and dishwashers. Voluntary gratuities are not to be recorded on a source record.

(2) Source records shall be maintained in sequence by date.

(l) Daily Summaries. Each permittee must maintain a daily summary that includes the following information:

(1) all information required to be recorded on source records;

(2) complimentary alcoholic beverages dispensed, showing the number of services, type of service, kind of drink, and normal selling price;

(3) alcoholic beverages that were lost through theft, showing the number of containers lost by size, brand, and class. The theft must be reported to the proper police department and must be substantiated by the report of such police department;

(4) alcoholic beverages that were lost through a disaster, showing the number of containers lost by size, brand, and class. The disaster must be reported to the comptroller;

(5) alcoholic beverages that were lost through breakage or spillage, showing the number of containers lost by size, brand, and class or type of drink and size. A written report must be prepared at the time of the loss;

(6) alcoholic beverages that were lost through the cleaning, servicing, or repair of dispensing equipment lines, showing the amount lost by class or type of drink and supported by:

(A) reports prepared by the permittee at the time of the malfunction; or

(B) repair/service invoices prepared by the repair/service company;

(7) alcoholic beverages taken from inventory for use in cooking;

(8) cover charges, door charges, entry fees, or admission fees. Cover charges, door charges, entry fees, and admission fees are subject to sales tax as provided by §3.298 of this title, unless the Texas Alcoholic Beverage Commission determines that the cover charges, door charges, entry fees, or admission fees collected are in violation of the Texas Alcoholic Beverage Commission rules or regulations; and

(9) information pertaining to changes made during the month concerning prices, glass sizes, bulk machine (e.g., margarita machine) recipes, ounces per serving, parties, or promotions.

(m) Purchase invoices.

(1) A record of all alcohol and alcoholic beverages purchased or received showing the date, the name and address of the person from whom purchased or received, the location from where shipped, the location received, the quantity and kind of beverage (brand and class) received, and the total price paid for each brand and class received.

(2) Alcoholic beverages used in mixing drinks as the secondary ingredient (e.g., vermouth, triple sec) must be supported by purchase invoices which have such beverages clearly denoted by the purchaser.

(n) Bad debts refund or credit.

(1) A permittee may take a credit against taxes to be paid to the comptroller or claim a refund on taxes paid to the comptroller for bad debt on sales if the permittee:[.]

(A) determines that the unpaid portion will be uncollectible;

(B) enters the unpaid portion of the sales gross receipts on their books as a bad debt; and

(C) claims the bad debt as a deduction for federal tax purposes during the same or subsequent reporting period.

(2) To establish bad debt credit or refund, a permittee's records must show:

(A) date of sale or service;

(B) name and address of purchaser;

(C) source records of sale or service;

(D) evidence that the gross receipts tax was paid to the comptroller;

(E) all payments or credits applied to the account of the purchaser;

(F) a designation that the account is a bad debt; and

(G) evidence that the account has been or will be claimed as a bad debt deduction for federal income tax purposes.

(3) To determine the amount of bad debt allowance for tax, all payments or credits in reduction of a customer's account must be applied ratably between alcoholic beverages and other goods sold to that customer.

(4) If all or part of the amount claimed as a bad debt is later collected, the amount collected must be reported as a taxable receipt in the reporting period in which the collection was made.

(5) Accounts may not be labeled as a bad debt for the purpose of delaying the payment of the mixed beverage gross receipts tax.

(o) Audit and examination of tax account.

(1) Determination of tax liability. In examining the tax account of any permittee, the comptroller may compute and determine the amount of gross receipts tax liability based on reports filed with the comptroller, records or information obtained from the permittee, records or information obtained from any seller who furnished alcoholic beverages to the permittee, or such other information as may come to the attention of the comptroller. The comptroller presumes that the disposition of all alcoholic beverages purchased by the permittee is taxable until established otherwise.

(2) Access to all information. The comptroller may examine all books, records, papers, documents, supplies, and equipment of a permittee. Additional records that may be required to be presented include, but are not limited to, the following:

(A) all procedure and operation manuals;

(B) all financial ledgers, journals, and registers;

(C) all financial statements prepared internally or by an outside bookkeeper, accountant, or certified public accountant;

(D) all bank statements;

(E) all federal income tax returns; and

(F) all state and federal employment tax returns and supporting documents.

(3) Failure to maintain or make records available for audit. In examining the tax account of each permittee, if the comptroller finds that the permittee has failed to maintain or make available the records required by any regulation of the comptroller, the comptroller may compute and determine the amount of the gross receipts tax liability from any available source or records, and estimates of the tax liability may be made by use of any available records for any period for which the permittee has failed to maintain records or file a report with the comptroller. In the event records are not made available, the comptroller will presume all alcohol purchased was sold. In the absence of records or evidence to the contrary, the comptroller may use [~~accept~~] an average pour size [~~figure~~] of 1.25 ounces for [~~per serving of~~] liquor; 16 ounces for a malt beverage; and 6 ounces for wine.

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 23, 2024.

TRD-202403897
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-2220

♦ ♦ ♦

34 TAC §3.1002

The Comptroller of Public Accounts proposes amendments to §3.1002, concerning mixed beverage sales tax. The comptroller amends the section to reflect the changes in Alcoholic Beverage Code, §§28.1001 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.01 (Authorized Activities), 32.15 (Removal of Beverages from Premises), 32.155 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.17 (Cancellation of Suspension of Permit; Grounds),

and 57.01 (Authorized Activities), made by House Bill 1024, 87th Legislature, 2021, effective May 12, 2021.

The comptroller amends subsection (a) to delete references to definitions defined in other statutes and rules and adds those definitions from those references to enhance readability. The comptroller amends paragraph (1) to add the definition of an alcoholic beverage as defined in Alcoholic Beverage Code, §1.04(1) (Definitions). The comptroller amends paragraph (2) to add the definition of complimentary alcoholic beverage as defined in §3.1001 (Mixed Beverage Gross Receipts). The comptroller amends paragraph (3) to add the definition of a governmental entity as defined in Tax Code, §151.309. The comptroller amends paragraph (5) to define the term permittee as defined in Tax Code, §183.001(b)(1) (Definitions).

The comptroller amends subsection (b) to replace the reference to §3.1001(f)(7) (Mixed Beverage Gross Receipts Tax) with §3.1001(f)(8). This implements House Bill 1024, which relates to alcoholic beverages sold by a permittee for off-premises consumption. These types of beverages are not subject to mixed beverage taxes as they are not consumed on premises as required by Tax Code, §183.041 (Tax Imposed on Sales of Mixed Beverages and Related Items). The change is consistent with proposed amendments to §3.1001 of this title.

The comptroller rearranges subsection (c)(5) related to bad debts for readability.

The comptroller deletes subsection (d)(4), a graphic related to examples of disclosure of tax statements, as it is available on the comptroller's website.

The comptroller amends subsection (f)(6) by deleting reference to obsolete mixed beverage permits and adding general language of permit, license, or certificate.

Brad Reynolds, Chief Revenue Estimator, 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.

Mr. Reynolds also has determined that the proposed amended rule would benefit the public by conforming the rule to current statutes and improving readability. 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 amended rule would have no significant fiscal impact on the state government, units of local government, or individuals. There would be no anticipated significant 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.*

The comptroller proposes the amendments under Tax Code, §111.002 (Comptroller Rules; Compliance; Forfeiture), 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 (State Taxation).

The amendments implement Alcoholic Beverage Code, §§28.1001 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.01 (Authorized Activities), 32.15 (Removal of Beverages from Premises), 32.155 (Pickup and Delivery of Alcoholic Beverages for Off-Premises Consumption), 32.17 (Cancellation of Suspension of Permit; Grounds), and 57.01 (Authorized Activities).

§3.1002. Mixed Beverage Sales Tax.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Alcoholic beverage--Alcohol, or any beverage containing more than 0.5% of alcohol by volume, which is capable of use for beverage purposes, either alone or diluted. [~~This term has the same meaning as assigned by §3.1001 of this title (relating to Mixed Beverage Gross Receipts Tax).~~]

(2) Complimentary alcoholic beverage--An alcoholic beverage served without any consideration paid to the permittee. [~~This term has the same meaning as assigned by §3.1001 of this title.~~]

(3) Governmental entity--The United States; an unincorporated instrumentality of the United States; a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States; the state of Texas; a county, city, special district, or other political subdivision of Texas; or other state or governmental unit boarding Texas but only to the extent those units exempt or do not impose tax on similar sales of items to Texas or a political subdivision of Texas. [~~An organization that is exempted from sales and use tax otherwise imposed on their purchases under Tax Code, Chapter 151 (Limited Sales, Excise, and Use Taxes), by operation of Tax Code, §151.309 (Governmental Entities).~~]

(4) Nonprofit organization--An organization that is exempted from the sales and use tax imposed under Tax Code, Chapter 151, by operation of Tax Code, §151.310(a) (Religious, Educational, and Public Service Organizations).

(5) Permittee--A person who holds any of the following permits issued by the Texas Alcoholic Beverage Commission: a mixed beverage permit, private club registration permit, private club exemption certificate permit, private club registration permit with a retailer late hours certificate, nonprofit entity temporary event permit, private club registration permit with a food and beverage certificate, mixed beverage permit with a late hours certificate, mixed beverage permit with a food and beverage certificate, or distiller's and rectifier's permit. The term includes an agent, servant, or employee of that person. [~~This term has the same meaning as assigned by §3.1001 of this title.~~]

(b) Mixed beverage sales tax. A tax at a rate of 8.25% is imposed on each alcoholic beverage sold, prepared, or served by a permittee, and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee to be mixed with alcohol and consumed on the permittee's premises. The sales price of each item on which mixed beverage sales tax is imposed includes, but is not limited to, those items identified in §3.1001(c) of this title. Those items identified in §3.1001(f)(1) - (8) [~~(7)~~] of this title are excluded from the sales price of items on which mixed beverage sales tax is imposed. Mixed beverage sales tax is imposed in addition to the mixed beverage gross receipts tax imposed under Tax Code, Chapter 183, Subchapter B.

(c) Administration, collection, and enforcement of mixed beverage sales tax.

(1) Except as otherwise provided in this paragraph, mixed beverage sales tax is administered, collected, and enforced in the same

manner as sales and use tax is administered, collected, and enforced in Tax Code, Chapter 151, except:

(A) a permittee may not deduct or withhold any amount of taxes collected as reimbursement for the cost of collecting the tax, pursuant to Tax Code, §151.423 (Reimbursement to Taxpayer for Tax Collection); [~~and~~]

(B) a permittee may not receive a discount for prepaying the tax, pursuant to Tax Code, §151.424 (Discount for Prepayments); and[~~.~~]

(C) any record, report or other instrument required to be filed by a permittee is not confidential under Tax Code, §151.027(a) (Confidentiality of Tax Information).

(2) Tax due is debt of the purchaser. Mixed beverage sales tax is a debt of the purchaser to the permittee until collected.

(3) Tax-included sales price. The total amount shown on a customer's sales invoice, billing, service check, ticket, or other receipt for sales that are subject to mixed beverage sales tax is presumed to be the sales price, without tax included. Contracts, bills, invoices, or other receipts that merely state that "all taxes" are included are not sufficient to relieve either the customer or the permittee of their tax responsibilities on the transaction. The permittee may overcome the presumption by using the permittee's records to show that tax was included in the sales price.

(4) Record-keeping requirements. Permittees are responsible for creating and maintaining records of purchases and sales as required by §3.1001(j) - (m) and (o) of this title.

(5) Bad debts. [~~The exclusion of bad debts from the mixed beverage gross receipts tax base, as established in §3.1001(n) of this title, does not apply to mixed beverage sales tax.~~] Bad debt deductions from mixed beverage sales tax are treated in the same manner as bad debt deductions from sales tax. For more information on bad debt deductions from sales tax, refer to §3.302 of this title (relating to Accounting Methods, Credit Sales, Bad Debt Deductions, Repossession, Interest on Sales Tax, and Trade-Ins). The exclusion of bad debts from the mixed beverage gross receipts tax base, as established in §3.1001(n) of this title, does not apply to mixed beverage sales tax.

(d) Separate tax disclosure statement.

(1) A permittee may include on a customer's sales invoice, billing, service check, ticket, or other receipt that includes an item subject to mixed beverage sales tax:

(A) a statement that mixed beverage sales tax is included in the sales price;

(B) a separate statement of the amount of mixed beverage gross receipts tax to be paid by the permittee on that sale;

(C) a separate statement of the amount of mixed beverage sales tax imposed on that item;

(D) a statement of the combined amount of mixed beverage gross receipts tax and mixed beverage sales tax to be paid on that item; or

(E) a statement of the combined amount of mixed beverage sales tax and sales and use tax imposed under Tax Code, Chapter 151, to be paid on all items listed on that sales invoice, billing, service check, ticket, or other receipt.

(2) Mixed beverage gross receipts tax cannot be charged to or paid by the customer. A receipt with a statement of the combined amount of mixed beverage gross receipts tax and mixed beverage sales tax provided in paragraph (1)(D) of this subsection must clearly show that the customer is not being charged mixed beverage gross receipts tax.

(3) For each receipt with a statement of the combined amount of mixed beverage sales tax and sales and use tax, as provided in paragraph (1)(E) of this subsection, the permittee's books and records must clearly show the amount of mixed beverage sales tax and sales and use tax on each sale of alcohol.

[~~(4) Examples of disclosure of tax statements.~~]
[~~Figure: 34 TAC §3.1002(d)(4)~~]

(e) Complimentary beverages. A permittee owes sales and use tax, as imposed by Tax Code, Chapter 151, on the purchase of alcoholic beverages, ice, and nonalcoholic beverages that are ingredients of a complimentary alcoholic beverage or that are served or provided by the permittee, without any consideration from the customer, to be mixed with a complimentary alcoholic beverage and consumed on the permittee's premises. The permittee also owes sales and use tax on taxable items that are furnished with a complimentary alcoholic beverage, such as napkins and straws.

(f) Exemptions; governmental entities; nonprofit organizations; university and student organizations; volunteer fire departments; temporary permit.

(1) Governmental entity exempt on purchase of alcohol. A governmental entity can claim an exemption from mixed beverage sales tax on the purchase of alcohol in the same manner as a governmental entity can claim exemption from the payment of sales and use tax on the purchase of alcohol under Tax Code, §151.309.

(2) Purchase of alcohol by nonprofit organization not exempt. A nonprofit organization cannot claim an exemption from the mixed beverage sales tax on the purchase of alcohol. In addition, except as provided in this subsection, a nonprofit organization is responsible for collecting mixed beverage sales tax on the sale, preparation, or service of alcoholic beverages to the same extent that the organization is responsible for paying mixed beverage gross receipts tax on such beverages. For more information, refer to §3.1001(e) of this title.

(3) Nonprofit organizations; fundraising events.

(A) The sale, preparation, or service of alcohol is exempt from mixed beverage sales tax when sold by a nonprofit organization that qualifies for exemption from sales and use tax under Tax Code, §151.310(a)(1) or (2) during a qualifying fundraising sale or auction authorized by Tax Code, §151.310(c).

(B) Except as provided in subparagraph (A) of this paragraph, the sale, preparation, or service of alcohol by a nonprofit organization that qualifies for exemption from sales and use tax under Tax Code, §151.310(a)(1) or (2) is computed in the same manner as mixed beverage gross receipts tax is computed in §3.1001(e) of this title.

(4) University and college student organizations. The sale, preparation, or service of alcohol is exempt from mixed beverage sales tax when sold by a university or college student organization that is certified as an affiliated organization by a university or college as defined in Education Code, §61.003 (Definitions) during a sale authorized by Tax Code, §151.321 (University and College Student Organizations).

(5) Volunteer fire departments; fundraising events. The sale, preparation, or service of alcohol is exempt from mixed beverage sales tax when sold by a volunteer fire department that qualifies for exemption from sales and use tax under Tax Code, §151.310(a)(4) during a qualifying fundraising sale or auction authorized by Tax Code, §151.310(c-1). This exemption is effective May 28, 2015. A previous exemption from mixed beverage sales tax on the sale, preparation, or

service of alcohol when sold by volunteer fire departments at fundraising events expired on September 1, 2014.

(6) Temporary mixed beverage permit required. Nonprofit organizations, university or college student organizations, and volunteer fire departments must hold a permit, license or certificate [~~daily temporary mixed beverage permit or daily temporary private club permit~~], issued by the Texas Alcoholic Beverage Commission, in order to sell alcoholic beverages and claim an exemption from mixed beverage sales tax on those sales pursuant to paragraphs (3) - (5) of this subsection.

(7) Governmental entities and nonprofit organizations owe mixed beverage gross receipts tax. A governmental entity or nonprofit organization is not exempt from the payment of mixed beverage gross receipts tax on receipts from the sale, service, or preparation of alcoholic beverages. This includes sales of alcohol during any fundraising sale or auction. For more information, refer to §3.1001(e) of this title.

(g) Lump-sum charges that include alcoholic beverages and additional items together for a single price.

(1) Permittees shall compute mixed beverage sales tax on alcoholic beverages that are served together with meals for a single charge in the same manner as mixed beverage gross receipts tax is computed in §3.1001(c)(1)(D) of this title.

(2) Permittees shall compute mixed beverage sales tax on alcoholic beverages that are served at private clubs, special events, or functions in the same manner as mixed beverage gross receipts tax is computed in §3.1001(d) of this title.

(h) Inventory used in cooking. Alcoholic beverages used in cooking are exempt from both mixed beverage sales tax under Tax Code, Chapter 183, and sales and use tax under Tax Code, Chapter 151, provided that the permittee follows the record-keeping requirements set out in §3.1001(h) and (l) of this title.

(i) Monthly mixed beverage sales tax reports. Each permittee must file a monthly mixed beverage sales tax report on or before the 20th day of the following month even if no sales or services of alcoholic beverages were made during the month. Reports and payments due on a Saturday, Sunday, or legal holiday may be submitted on the next business day. The Texas Mixed Beverage Sales Tax report is due in addition to the Texas Mixed Beverage Gross Receipts Tax report to be filed under Tax Code, Chapter 183, Subchapter B, and the Texas Sales and Use Tax report required to be filed under Tax Code, Chapter 151.

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 23, 2024.

TRD-202403898
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 475-2220

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 150. MEMORANDUM OF UNDERSTANDING AND BOARD POLICY STATEMENTS

SUBCHAPTER A. PUBLISHED POLICIES OF THE BOARD

37 TAC §150.55, §150.56

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 150, Subchapter A §150.55 and §150.56, concerning memorandum of understanding and board policy statements. The amendments are proposed for addressing grammatical changes and sentence structure for uniformity and consistency throughout the rules.

David Gutiérrez, 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 these sections.

Mr. Gutiérrez 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 to these sections will be to provide accurate rule titles and consistency in terminology throughout the rules. 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 rules as proposed. The amendments 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; does not create a new regulation; does not expand, limit, or repeal an existing regulation; 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.

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 §2006.001(2).

Comments should be directed to Bettie L. 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.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rules are proposed under Texas Government Code, Title 5. Open Government, Subtitle B, Ethics, Chapter 572 and Section 508.0441. Subtitle B, Ethics, Chapter 572, is the ethics policy of this state for state officers or state employees. Section 508.0441 requires the Board to implement a policy under which a Board member or Parole Commissioner should disqualify himself or herself on parole or mandatory supervision decisions. Section 508.035, Government Code, designates the presiding officer to establish policies and procedures to further the efficient administration of the business of the board.

No other statutes, articles, or codes are affected by these amendments.

§150.55. Conflict of Interest Policy.

(a) Section 1--Policy.

(1) It is the policy of the Board that no Board Member or Parole Commissioner shall have any interest, financial or otherwise, direct or indirect; or engage in any business transaction or professional activity or incur any obligations of any nature that [~~which~~] is in substantial conflict with the proper discharge of their [~~his~~] duties in the public interest. In implementing this policy, they are provided the following standards of conduct, disclosure, and disqualification to be observed in the performance of their official duties.

(2) A Board Member or Parole Commissioner shall respect and comply with the law and not allow their [~~his~~] family, social, or other relationships to influence their [~~his~~] conduct, decisions, or judgment.

(b) Section 2--Disclosure.

(1) A Board Member or Parole Commissioner shall submit generally, and on a case-by-case [~~ease by ease~~] basis, written notice to the Presiding Officer (Chair) of any substantial interest held by the Board Member or Parole Commissioner in a business entity doing business with the Board of Criminal Justice, TDCJ, or [~~and~~] the Board.

(2) A Board Member or Parole Commissioner having a personal or private interest in any measure, proposal, or decision pending before the Board (including parole and discretionary mandatory supervision) release decisions) shall immediately notify the Chair in writing of such interest. The Chair shall publicly disclose the Board Member's or Parole Commissioner's interest to the Board in a meeting of the Board. The Board Member or Parole Commissioner shall not vote or otherwise participate in the decision. The disclosure shall be entered into the minutes or official record of the meeting.

(3) A Board Member or Parole Commissioner shall consider the possibility that they have [~~he is involved in~~] a conflict of interest before making any decision or vote.

(4) If a Board Member or Parole Commissioner is uncertain whether any part of the conflict-of-interest [~~conflict of interest~~] policy applies to them [~~him~~] in a specific matter, they [~~he~~] shall request the General Counsel of the Board to determine whether a disqualifying conflict of interest exists.

(c) Section 3--Standards of Conduct.

(1) No Board Member or Parole Commissioner shall accept or solicit any gift, favor, or service that may [~~might~~] reasonably tend to influence them [~~him~~] in the discharge of their [~~his~~] official duties or that they [~~he~~] know [~~knows~~] or should know is being offered with the intent to influence their [~~his~~] official conduct.

(2) No Board Member or Parole Commissioner shall accept employment or engage in any business or professional activity which they [~~he~~] might reasonably expect would require or induce them [~~him~~] to disclose confidential information acquired by reason of their official duties.

(3) No Board Member or Parole Commissioner shall accept other employment or compensation that could [~~which would~~] reasonably be expected to impair their [~~his~~] independence of judgment in the performance of their [~~his~~] official duties.

(4) No Board Member or Parole Commissioner shall make personal investments that could reasonably be expected to create a substantial conflict between their [~~his~~] private interest and the public interest.

(5) No Board Member or Parole Commissioner shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised their [~~his~~] official powers or performed their [~~his~~] official duties in favor of another.

(d) Section 4--Disqualification.

(1) Disqualification. A Board Member shall recuse themself [~~himself or herself~~] from voting on all clemency matters, [~~matters;~~] and a Board Member or Parole Commissioner shall recuse themself [~~themselves~~] from voting on all decisions to release on parole or mandatory supervision [~~decisions~~], and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) they know that individually or as a fiduciary, they have an interest in the subject matter before them; or

(B) the Board Member or Parole Commissioner or their [~~his/her~~] spouse is related by affinity or consanguinity within the third degree to a person who is the subject of the decision before them.

(2) Recusal. A Board Member shall disqualify themself [~~himself or herself~~] from voting on all clemency matters, [~~matters;~~] and a Board Member or Parole Commissioner shall disqualify themself [~~themselves~~] from voting on all decisions to release on parole or mandatory supervision [~~decisions~~], and decisions to continue, modify, or revoke parole or mandatory supervision when:

(A) their impartiality might reasonably be questioned;

(B) they have a personal bias or prejudice concerning the subject matter or person in the decision before them; or

(C) they were [~~the Board Member or Parole Commissioner was~~] a complainant, a material witness, or [~~has~~] served as counsel for the state or the defense in the prosecution of the subject of the parole decision or revocation decision before them.

(e) Section 5--Documentation.

(1) A Board Member or Parole Commissioner shall notify the Chair and General Counsel in writing when they disqualify or recuse themself [~~themselves~~] from voting;

(2) A Board Member or Parole Commissioner shall provide the specific reason for disqualification or recusal;

(3) A Board Member or Parole Commissioner shall document the recusal or disqualification on the minute sheet of the offender's file; and

(4) A Board Member or Parole Commissioner shall place the written notification in the offender's file.

§150.56. Policies Pertaining to the Administration of the Agency.

(a) The Board has overall managerial responsibility for developing, promulgating, and investigating policies on parole and mandatory supervision.

(b) The Presiding Officer of the Board or the Presiding Officer's designee acts as the agency's liaison to the legislature. The Board shall have final approval over all proposed legislation before being submitted to the legislature.

(c) The Presiding Officer of the Board or the Presiding Officer's designee shall serve as the agency's [~~agency~~] spokesperson on all matters pertaining to Board policy.

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 22, 2024.

TRD-202403870

Bettie Wells
General Counsel
Texas Board of Pardons and Paroles
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 406-5452

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CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION
SUBCHAPTER A. MISSION AND ADMISSIONS

37 TAC §152.1

The Texas Board of Criminal Justice (board) proposes amendments to §152.1, concerning Correctional Institutions Division. The proposed amendments revise "offender" to "inmate" throughout and remove a reference to transfer facilities.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register.*

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §493.0021, which establishes organizational flexibility.

Cross Reference to Statutes: None.

§152.1. Correctional Institutions Division.

The Correctional Institutions Division (CID) is the division of the Texas Department of Criminal Justice with operational responsibility for providing safe and appropriate confinement, supervision, and rehabilitation of Texas adult felony inmates [~~offenders~~]. The CID operates a variety of secure correctional facilities including prisons, pre-release facilities, psychiatric facilities, medical facilities, substance abuse felony punishment facilities, state jails, [~~transfer facilities,~~] and intermediate sanction facilities.

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 26, 2024.

TRD-202403922
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Earliest possible date of adoption: October 6, 2024
For further information, please call: (936) 437-6700

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SUBCHAPTER B. CORRECTIONAL CAPACITY

37 TAC §§152.21, 152.23, 152.25, 152.27

The Texas Board of Criminal Justice (board) proposes amendments to Chapter 152, Subchapter B, concerning Correctional Capacity. The proposed amendments revise "offender" to "inmate" and make grammatical updates throughout the subchapter; and revise §152.25 to amend the title, update the names of units, remove units that were sold or closed with no possibility of reopening, and update the maximum rated capacity of individual units.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice (TDCJ), has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to accurately reflect the maximum rated capacity of existing units within the TDCJ. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no elimination of employee positions but will create positions; will have an increase in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register.*

The amendments are proposed under Texas Government Code § 492.013, which authorizes the board to adopt rules; and §

499.102-.110, which establishes procedures for determining unit and system capacity.

Cross Reference to Statutes: None.

§152.21. Purpose.

Pursuant to Texas Government Code §§499.102-499.110, the purpose of this subchapter is to establish the maximum rated capacity of individual units. This subchapter is not intended to create a liberty interest or grant a right on the part of any inmate [~~offender~~] within the custody of the Texas Department of Criminal Justice.

§152.23. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the content clearly indicates otherwise.

(1) De minimis increase in maximum rated unit capacity is the addition of 2% or fewer beds to the capacity of a unit on a one-time [~~one time~~] basis as originally established by the Texas Board of Criminal Justice (TBCJ), and that [~~the~~] addition will not increase the monthly gross payroll of the unit to which it is added by $500,000 or more.

[~~(2) H.B. 124 is the statutory process for increases other than a de minimis increase to capacity in accordance with Texas Government Code §§499.102-499.110, as enacted by H.B. 124, Acts 1991, 72nd Leg., ch. 655.~~]

(2) [~~(3)~~] Maximum rated unit capacity is the greatest density of inmates [~~offenders~~] in relation to space available for inmate [~~offender~~] housing as established by the TBCJ.

§152.25. Maximum Rated Capacity of Individual [~~Individuals~~] Units.

The Texas Board of Criminal Justice establishes the following maximum rated capacities for existing units.
Figure: 37 TAC §152.25
[~~Figure: 37 TAC §152.25~~]

§152.27. Unit and System Capacity Standards.

(a) Unit Capacity General Standard. Except as necessary on a temporary basis, the number of inmates [~~offenders~~] assigned to a unit shall not exceed the unit's maximum rated capacity as established by the Texas Board of Criminal Justice.

(b) Texas Department of Criminal Justice (TDCJ) Operational Capacity Standard. The TDCJ should operate at no higher than 96% of the maximum system capacity.

(c) Increases in Capacity. An increase in maximum rated unit capacity, other than a de minimis increase, shall be made in accordance with Texas Government Code §§499.102-499.110 [~~H.B. 124~~].

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 26, 2024.

TRD-202403955
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Earliest possible date of adoption: October 6, 2024
For further information, please call: (936) 437-6700

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CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.31

The Texas Board of Criminal Justice (board) proposes amendments to §163.31, concerning Sanctions, Programs, and Services. The proposed amendments revise presentence and postsentence investigations to mirror statutory language; revise continuum of sanctions to progressive sanctions throughout; update references to Texas Gov't Code; and make grammatical and formatting updates.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register.*

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

§163.31. Sanctions, Programs, and Services.

(a) Core Services.

(1) Court Services. Each community supervision and corrections department (CSCD) shall:

(A) conduct presentence and postsentence [~~pre/post-sentence~~] investigations as ordered by the court and in accordance with law;

(B) report violations to the court;

(C) provide testimony as custodian of the record;

(D) conduct assessments and complete reports mandated by law;

(E) make recommendations to the court regarding conditions of supervision; and

(F) maintain case files.

(2) Basic Supervision. Each CSCD shall:

(A) enforce conditions of community supervision;

(B) perform case intake;

(C) conduct assessments, reassessments, and case planning, and implement strategies to address identified offender risks and needs with the resources available to jurisdictions;

(D) provide contacts to offenders on direct community supervision per Texas Department of Criminal Justice (TDCJ) Community Justice Assistance Division (CJAD) standards;

(E) maintain case files;

(F) develop and monitor community service restitution programs;

(G) as ordered by the court, assess and, when needed, provide access to education, substance abuse, and mental impairment services;

(H) monitor employment and provide job and/or vocational services to employable offenders; and

(I) provide access to assessment and treatment services for sex offenders and violent offenders and maintain appropriate levels of supervision for these offenders.

(3) Administrative Services. Each CSCD shall provide adequate management and support service to the CSCD operation, commensurate with available resources, to include:

(A) administrative support staff;

(B) data processing support;

(C) data control and evaluation support;

(D) fiscal services support; and

(E) training coordinators.

(b) Progressive [~~Continuum of~~] Sanctions. Each CSCD director should [~~shall~~] ensure the development and implementation of a progressive [~~continuum of~~] sanctions model that addresses [~~address~~] the risks and needs of offenders as identified in the jurisdiction's strategic plan, subject to available resources and local policy.

(c) Regional Planning. Regional programs and services shall address regional needs as identified in each jurisdiction's strategic plan and respond efficiently and economically to specific offender issues for each of the participating jurisdictions. Each CSCD director participating in regional programs and services shall work with other CSCD directors affected by those regional efforts in the planning, developing, and implementing of regional programs and services to address offender needs.

(d) Community Service Restitution (CSR). Each CSCD director shall maintain written agreements with governmental and/or nonprofit entities to provide offenders opportunities to comply with court-ordered community service restitution according to Texas Code of Criminal Procedure article 42A.304.

(e) Educational Skill Level. Using a standardized educational screening instrument, each CSCD director shall ensure that all persons placed on community supervision, who are unable to document attainment of a high school diploma or GED shall be screened to determine if the persons possess:

(1) educational [~~Educational~~] skills equal to or greater than the sixth grade level; or

(2) the [~~The~~] intellectual capacity or learning ability to achieve the sixth grade skills level. Programs that assist offenders in attaining the educational skill level of sixth grade and above shall be developed and/or made available to the courts for offender referral. Each CSCD director may maintain written agreements with school and volunteer organizations to provide tutoring to teach reading to functionally illiterate offenders.

(f) Methods for Measuring the Success of Community Supervision and Corrections Program. For purposes of Texas Government Code §509.007(b)(2), the success of programs provided by a CSCD or an entity served by a CSCD is measured by assessing rates of program completion and recidivism.

(1) Program completion is the completion of all required components of the program, and/or an offender's release from the program that is not related to any non-compliant behavior, an inappropriate placement, or death.

(2) Recidivism is a subsequent arrest for a new, separate offense that is punishable by incarceration. This definition does not include arrests for motions to revoke community supervision and bond forfeitures.

(g) Conflicts of Interest. Each CSCD director shall ensure the adoption of a written policy that prohibits possible conflicts of interest affecting the CSCD, its supervision officers, and employees.

(h) Partnerships with Law Enforcement Agencies. Each CSCD shall cooperate with and provide assistance to municipal, county, and state law enforcement agencies or peace officers in situations relating to offender supervision, absconder apprehension, victim services, and other community-based criminal justice activities.

(i) A CSCD may contract with another CSCD for services or facilities.

(j) A judicial district may contract for programs and services with a CSCD established for another judicial district, in lieu of establishing its own CSCD, if such a contract promotes administrative convenience, economy, or improved services.

(k) More than one CSCD may serve a judicial district that includes more than one county if providing more than one CSCD promotes administrative convenience, economy, or improved services.

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 26, 2024.

TRD-202403924
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Earliest possible date of adoption: October 6, 2024
For further information, please call: (936) 437-6700

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37 TAC §163.37

The Texas Board of Criminal Justice (board) proposes amendments to 37 TAC §163.37, concerning Reports and Records. The proposed amendments revise presentence report and postsentence report to mirror statutory language.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required. The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register.*

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division.

Cross Reference to Statutes: None.

§163.37. Reports and Records.

(a) Case Records. Each community supervision and corrections department (CSCD) director shall develop and maintain a case record management system for offenders supervised by the CSCD. Each case record shall contain:

(1) the court order placing the person on community supervision citing all conditions of community supervision;

(2) a chronological listing of all supervision case activity, decisions, services rendered, and assessments;

(3) a criminal history record or summary issued by a law enforcement agency;

(4) periodic evaluations;

(5) if required, a presentence [~~pre-sentence investigation~~] report (PSR) [(~~PSIR~~)] or postsentence [~~post-sentence investigation~~] report; and

(6) other documents or information related to the defendant deemed appropriate by the community supervision officer or CSCD director.

(b) Case Record Confidentiality. Confidentiality of case records shall be maintained in accordance with federal and state laws. Confidential medical and psychological information shall be handled in accordance with 37 Texas Administrative Code §163.41. Information shall be released only under circumstances authorized by law or as directed by the court.

(c) Presentence and Postsentence [~~Pre- and Post- Sentence Investigation~~] Reports (Reports). Unless waived by the defendant, a PSR [~~PSIR~~] shall be completed before the imposition of a sentence and in accordance with the Texas Code of Criminal Procedure, art. 42A, Subchapter F. If a PSR [~~PSIR~~] was not completed, a postsentence [~~post-sentence investigation~~] report may be prepared, if directed by the judge, in accordance with Texas Code of Criminal Procedure, art. 42A.259. The reports, and the information obtained in connection with the reports, are confidential and may be released only to those persons and under those circumstances as authorized by Texas Code of Criminal Procedure, art. 42A.256. Information contained in the reports may be disclosed to the Department of Family and Protective Services to the extent that such information discloses that a child's physical or mental health or welfare has been adversely affected by abuse or neglect. Copies of the completed reports shall be maintained in a defendant's case file and made available for periodic audits, reviews, or inspections by the Texas Department of Criminal Justice Community Justice Assistance Division (TDCJ CJAD) staff.

(d) PSR [~~PSIR~~] Format. The TDCJ CJAD format shall be used for preparing PSRs [~~PSIRs~~]. A different format may be used if the content requirements comply with Texas Code of Criminal Procedure, art. 42A.253 and the format is approved by both the TDCJ CJAD and the court having jurisdiction over the defendant.

(e) Transfer to the TDCJ. Upon the revocation of community supervision or an adjudication of guilt, the CSCD shall forward to the county, for inclusion in the defendant's penitentiary packet, a copy of the defendant's community supervision conditions, and if prepared, a copy of the victim's impact statement, and a copy of the presentence or postsentence [~~pre- or post- sentence investigation~~] report. The CSCD also shall forward any additional information that was prepared for a revocation or other hearing and information updating the PSR [~~PSIR~~].

(f) Interstate Transfer. CSCD directors shall comply with the uniform interstate transfer procedures and obtain the approval of the TDCJ Interstate Compact Office for an interstate transfer of supervision in accordance with Texas Government Code, Chapter 510 and the Interstate Compact for Adult Offender Supervision Rules.

(g) Intrastate Transfer. Each CSCD director shall comply with the uniform transfer procedures in accordance with 37 Texas Administrative Code §163.35(c)(8).

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 26, 2024.

TRD-202403923
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Earliest possible date of adoption: October 6, 2024
For further information, please call: (936) 437-6700

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 15. FINANCING AND CONSTRUCTION OF TRANSPORTATION PROJECTS

SUBCHAPTER O. COUNTY TRANSPORTATION INFRASTRUCTURE FUND GRANT PROGRAM

43 TAC §15.188

The Texas Department of Transportation (department) proposes the amendments to §15.188 concerning Application Procedure.

EXPLANATION OF PROPOSED AMENDMENTS

S.B. No. 160, 87th Legislature, Regular Session, 2021, amended Transportation Code, Chapter 256, to remove the requirement that a county must submit the county road condition report as part of the application process for consideration of being awarded a County Transportation Infrastructure Fund Grant.

Amendments to §15.188, Application Procedure, delete subsection (c), which provides the requirement that a county must submit a county road condition report as part of the application process for consideration of being awarded a County Transportation Infrastructure Fund Grant, and redesignates existing subsection (d) as subsection (c).

FISCAL NOTE

Stephen Stewart, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that as a result of enforcing or administering the rules for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of the department's or commission's enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Charon Williams, Director, Transportation Programs Division, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Charon Williams has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be that the application package that counties submit for consideration of being awarded a County Transportation Infrastructure Fund Grant will be streamlined and less onerous to counties.

COSTS ON REGULATED PERSONS

Charon Williams has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Charon Williams has considered the requirements of Government Code, §2001.0221 and anticipates that the proposed rules will have no effect on government growth. She expects that during the first five years that the rule would be in effect:

(1) it would not create or eliminate a government program;

(2) its implementation would not require the creation of new employee positions or the elimination of existing employee positions;

(3) its implementation would not require an increase or decrease in future legislative appropriations to the agency;

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

(5) it would not create a new regulation;

(6) it would not expand, limit, or repeal an existing regulation;

(7) it would not increase or decrease the number of individuals subject to its applicability; and

(8) it would not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

Charon Williams has determined that a written takings impact assessment in not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the amendments to §15.188 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "CTIF Grant." The deadline for receipt of comments is 5:00 p.m. on October 7, 2024. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §256.103, which authorizes the commission to adopt rules to administer the County Transportation Infrastructure Fund Grant Program.

The authority for the proposed amendments was provided by S.B. 160, 87th Regular Session, 2021. The primary author and the primary sponsor of that bill are Senator Charles Perry and Representative Drew Darby, respectively.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 256.

§15.188. Application Procedure.

(a) Application form. An eligible county may submit to the department an application for a grant from the fund.

(1) The application must be submitted electronically using the department's automated system designated for the grant program.

(2) A county is responsible for obtaining its use of a computer system and access to the Internet.

(3) Upon request, a county may use the department's computer system at any district office location.

(4) For an application to be valid, the county must submit the application during a period designated under §15.187 of this subchapter (relating to Acceptance of Applications) and satisfy the requirements of this section.

(b) Plan requirements. An application must contain a plan that:

(1) provides a prioritized list of transportation infrastructure projects to be funded by the grant;

(2) describes the scope of each listed transportation infrastructure project including:

(A) a clear and concise description of the proposed work;

(B) an implementation plan, including a schedule of proposed activities;

(C) an estimate of project costs;

(D) the project funding sources; and

(E) other information required by the department;

(3) specifies the total amount of grant funds being requested in the application;

(4) identifies matching funds required under §15.183 of this subchapter (relating to Matching Funds); and

(5) identifies other potential sources of funding to maximize resources available for the listed transportation infrastructure projects.

[~~(c) Additional submissions. In addition to the application form, the county must also submit a road condition report described by Transportation Code, §251.018 made by the county for the preceding year.~~]

(c) [~~(d)~~] Information for previous grant. If the county has received a grant under this subchapter, it must also submit:

(1) a certification that all previous grants have been or are being spent in accordance with the applicable plan submitted under subsection (b) of this section; and

(2) an accounting of expenditures under the previous grant, including any amounts spent on administrative costs.

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 22, 2024.

TRD-202403886
Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Earliest possible date of adoption: October 6, 2024
For further information, please call: (512) 463-8630

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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 107. REGISTRATION OF VISION SUPPORT ORGANIZATIONS

The Office of the Secretary of State (Office) adopts new Chapter 107, §§107.1 - 107.5, concerning registration of vision support organizations (VSOs). The Office adopts these rules to implement the new registration requirements for VSOs in Senate Bill 820, enacted by the 88th Legislature, Regular Session, codified at Chapter 74 of the Texas Business and Commerce Code (SB 820).

Sections 107.1 - 107.5 are adopted without changes to the proposed text as published in the June 21, 2024, issue of the *Texas Register* (49 TexReg 4533) and will not be republished.

BACKGROUND INFORMATION AND JUSTIFICATION

The adoption implements SB 820 (88th Legislature, Regular Session), which establishes a required occupational registration for VSOs in Chapter 74 of the Texas Business and Commerce Code. The bill took effect on September 1, 2023.

As enacted by SB 820, Texas Business and Commerce Code §74.002 requires a VSO (as defined in Texas Business and Commerce Code §74.001(3)) to register annually with the Office. Texas Business and Commerce Code §74.004(a) identifies the information that must be included in the VSO's registration filed with the Office. Texas Business and Commerce Code §74.005(c) directs a VSO to file a corrected registration semiannually as necessary. Texas Business and Commerce Code §74.004(b) specifies that a registration and each corrected registration must be accompanied by a fee in an amount set by the Office.

The purpose of these new rules under Chapter 107 (Registration of Vision Support Organizations) is to provide information regarding the procedures for VSO registration with the Office, in accordance with SB 820.

COMMENTS

The 30-day comment period ended on July 21, 2024. During this period, the Office received one comment regarding the proposed rules from the National Association of Retail Optical Companies. A summary of the comment relating to the proposed rules and the Office's response follows.

Comment: The commenter suggested revising proposed §107.4(a) to provide that a correction filing is not necessary for the second half of a calendar year if the VSO timely filed a renewal application under proposed §107.3(b). The commenter stated that the correction filing seemed unnecessarily duplicative in such a circumstance and would force the VSO to incur added work and cost.

Response: The Office declines to revise §107.4(a) as suggested. As reflected in Chapter 74 of the Texas Business and Commerce Code and the Office's proposed rules, a statement of correction and a renewal registration are two separate actions that serve different purposes. A registered VSO satisfies the requirement in Texas Business and Commerce Code §74.005(c) to file a corrected registration on a semiannual basis by timely submitting a statement of correction as provided by proposed §107.4. Proposed §107.4(c) sets at the end of each semiannual period (i.e., June 30 and December 31) a forty-five day window to submit a statement of correction that is intended to afford a VSO adequate time to provide a complete and accurate corrected registration. By timely filing a statement of correction, a VSO updates the contents of its immediately preceding registration, whether initial or previously renewed. Conversely, a renewal registration simply continues an existing registration with information current at that time and is typically due by January 31 of each year under Texas Business and Commerce Code §74.005. Changes to the information provided in a registration on file must be made with a statement of correction and cannot be effectuated through a renewal application. The timely filing of a renewal registration does not absolve a VSO of also correcting its registration in accordance with Chapter 74 of the Texas Business and Commerce Code and the Office's proposed rules, despite the potential for the correction to be filed after the renewal. Furthermore, the commenter's suggested revision presumes that the information is unchanged between the second half of a year and the time of filing the renewal application, which may not necessarily be the case in all circumstances.

SUBCHAPTER A. DEFINITIONS

1 TAC §107.1

STATUTORY AUTHORITY

The new rules are adopted as authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403874

Adam Bitter
General Counsel
Office of the Secretary of State
Effective date: September 11, 2024
Proposal publication date: June 21, 2024
For further information, please call: (512) 475-2813

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SUBCHAPTER B. REGISTRATION AND RENEWAL OF VISION SUPPORT ORGANIZATIONS

1 TAC §107.2, §107.3

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403876
Adam Bitter
General Counsel
Office of the Secretary of State
Effective date: September 11, 2024
Proposal publication date: June 21, 2024
For further information, please call: (512) 475-2813

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SUBCHAPTER C. STATEMENT OF CORRECTION

1 TAC §107.4

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403878
Adam Bitter
General Counsel
Office of the Secretary of State
Effective date: September 11, 2024
Proposal publication date: June 21, 2024
For further information, please call: (512) 475-2813

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SUBCHAPTER D. FILING FEES

1 TAC §107.5

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403879
Adam Bitter
General Counsel
Office of the Secretary of State
Effective date: September 11, 2024
Proposal publication date: June 21, 2024
For further information, please call: (512) 475-2813

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PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

The Texas Health and Human Services Commission (HHSC) adopts amendments to §355.304, concerning Direct Care Staff Spending Requirement on or after September 1, 2023; §355.306, concerning Cost Finding Methodology before September 1, 2025; §355.307, concerning Reimbursement Setting Methodology before September 1, 2025; and §355.308, concerning Direct Care Staff Rate Component before September 1, 2025; repeal of §355.309, concerning Performance-based Add-on Payment Methodology; and §355.314, concerning Supplemental Payments to Non-State Government-Owned Nursing Facilities; and adopts new §355.318, concerning Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025; and §355.320, concerning Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025.

The amendments to §§355.304, 355.306, 355.307, 355.308; the repeal of §355.309 and §355.314; and the new §355.318 are adopted without changes to the proposed text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2859) These rules will not be republished.

New §355.320 is adopted with changes to the proposed text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2859). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The amendments, new rules, and repeals are necessary to implement the 2024-25 General Appropriations Act (GAA), House Bill 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 25). Rider 25 provides appropriations for HHSC to "develop and implement a Texas version of the Patient Driven Payment Model (PDPM) methodology for the reimbursement of long-term stay nursing facility services in the Medicaid program to achieve improved care for long-term stay nursing facility services, excluding services provided by a pediatric care facility or any state-owned facilities."

The adoption amends §355.304, concerning Direct Care Staff Spending Requirement on or after September 1, 2023, to specify how the spending requirement will operate under PDPM Long-Term Care (LTC). The adoption amends the title of §355.306 to "Cost Finding Methodology before September 1, 2025," and revises the rule text to replace "Rate Analysis Department" with "Provider Finance Department." The title of §355.307 is amended to "Reimbursement Setting Methodology before September 1, 2025," and the title of §355.308 is amended to "Direct Care Staff Rate Component before September 1, 2025." The revised titles clarify that the rules are in effect until September 1, 2025, when the PDPM LTC methodology is implemented. The adoption repeals §355.309, concerning Performance-based Add-on Payment Methodology, and §355.314, concerning Supplemental Payments to Non-State Government-Owned Nursing Facilities, as these rules are no longer applicable to nursing facility reimbursement. Finally, the adoption adds new rules §355.318, concerning Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025, and §355.320, concerning Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025. The new rules operationalize the rider requirements, enabling HHSC to implement PDPM LTC.

COMMENTS

The 31-day comment period ended June 3, 2024.

During this period, HHSC received comments regarding the proposed rules from 16 commenters, including the following organizations: Ambassadors Group, Centex Continuing Care Network, Creative Solutions Health Care, Focused Post Acute, Fundamental Administrative Services, Gulf Coast LTC Partners, Long Term Care Facilities Council, Nexion Health Management, Priority Management, Regency Integrated Health Services, Senior Living Properties, StoneGate Senior Living, Summit LTC Management, The Ensign Group, The Independent Coalition of Nursing Home Providers, and Texas Healthcare Association. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Several commenters recommended a change to proposed §355.318(d)(1), suggesting that HHSC add minimum data set (MDS) coordinator and feeding assistant expenses to the nursing rate component, as these roles should be appropriately reflected in the reimbursement methodology.

Response: HHSC disagrees and declines to revise the rule. Compensation for MDS coordinators who are registered nurses or licensed vocational nurses is included in the nursing component; therefore, modification of the rule is not necessary. HHSC disagrees that compensation for feeding assistants should be included in the nursing component, because feeding assistants do not provide nursing care to residents. These costs are more relevant to the non-case mix component.

Comment: Several commenters requested that the proposed rates under PDPM LTC be proportional to the methodological rate components established under §355.318.

Response: HHSC appreciates the comment related to the proposed rates for nursing facilities under PDPM LTC. However, the rate adoption process for nursing facility rates proposed to be effective on September 1, 2025, is outside the scope of this rule proposal. No revisions were made to the rule.

Comment: Several commenters requested that HHSC update methodological rates on a biennial basis using the most recent cost reports to ensure that rates accurately reflect current costs and practices, thereby promoting financial stability and quality care. Commenters suggested that HHSC modify the PDPM LTC methodology to reflect any changes the Centers for Medicare & Medicaid Services (CMS) makes to the methodology for Medicare skilled nursing facility services.

Response: HHSC appreciates this comment but declines to revise the rule. HHSC has an ongoing biennial fee review process under which HHSC will review nursing facility daily rates on a biennial basis. The purpose of the biennial fee review is to evaluate the appropriateness of established methodologies and methodological rates.

Comment: Several commenters recommend that HHSC create a fourth subarea of the non-case mix component within §355.318(d) for environmental services costs, which would include operations costs of compensation and benefits for laundry, housekeeping, and maintenance staff, as well as related operations supply costs for laundry and housekeeping supplies, and building repair and maintenance costs.

Response: HHSC disagrees and declines to revise the rule. The purpose of the subareas in §355.318 is to clarify how the current rate components for general administration and operations, dietary and fixed capital assets under the Resource Utilization Groups, Version III (RUG-III) methodology are being transitioned into the non-case mix component under PDPM LTC. HHSC can provide information on how various costs factor into the PDPM LTC methodological rates upon request but does not believe an additional subarea is warranted.

Comment: Several commenters requested the elimination of the Nursing Care Staff Rate Enhancement Program in §355.320 because the spending requirement duplicates the requirement established in §355.304. Furthermore, commenters requested: 1) if the program is not eliminated, HHSC allow for a revised enrollment process so program funds to participating providers could be "level-set" at the time the changes to the program proposed in §355.320 become effective, and 2) the participation levels of all facilities in the state be set to zero so each facility has the opportunity to elect a new participation level, subject to funds allocated to this specific program.

Response: HHSC disagrees and declines to revise the rule. HHSC is preparing an evaluation prior to the 89th Texas Legislature regarding the Direct Care Staff Enhancement Program in accordance with Rider 30(d) of the 2024-25 GAA, House Bill 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 30). Rider 30(d) requires HHSC to evaluate the rate enhancement programs paid under Medicaid to providers to in-

crease reimbursements for direct care and attendant care services. HHSC will report on "certain financial information regarding rate enhancement programs, including, but not limited to, the funding impact, by provider type and service, of the operation of the rate enhancement programs, the percentage of providers and services that participate in the programs, the efficacy of the programs in recruiting and retaining the workforce necessary to deliver services, and the cost of participation to providers for complying with the program requirements." HHSC will defer to legislative consideration regarding the continuation of the rate enhancement programs. Any change to open enrollment for the rate enhancement program is outside the scope of this rule proposal.

Comment: Several commenters pointed out that §355.320(d) discusses reporting requirements as they relate to participating families. It appears that (d)(2), (3), and (4) are repeated in paragraphs (d)(5), (6), and (7), respectively. They requested these paragraphs be evaluated to determine if all six paragraphs are necessary.

Response: HHSC agrees and deleted paragraphs (5), (6), and (7) in §355.320(d).

Comment: Several commenters pointed out that §355.320(b)(11) indicates facilities that do not submit a staffing and compensation report within 60 days of the end of the rate year will be placed on vendor hold. The rate year is defined in §355.320(b)(9) as the period from September 1 to August 31. However, §355.320(b)(11) also indicates that a staffing and compensation report would include the activities of the provider "from the first day through the last day of the rate year or provider's cost report year." Several commenters requested clarification on when a vendor hold would be placed on a provider for failure to submit a report and if that report would always be based on the "rate year" or if it would be based on either the rate year or the cost reporting year.

Response: HHSC declines to revise the rule. Providers must submit reports to HHSC to be held accountable for their spending requirements under the Direct Care Staff Enhancement Program. While the rate year for purposes of the program is the state fiscal year, HHSC has allowed providers to submit cost reports on the provider's fiscal year or the state fiscal year. For providers who choose to submit cost reports on a fiscal period that does not align with the program rate year, HHSC may end up holding providers accountable for a particular rate year using two different reports. HHSC does not place providers on vendor hold until at least 15 days after the report due date in accordance with 1 TAC §355.111.

Comment: Several commenters expressed concern that the 60-day requirement to submit a report is not feasible, because providers are often not given access to the cost reporting system used to submit reports for one year or longer after the end of a provider's cost reporting period. This issue is especially concerning under circumstances where a provider has undergone a change of ownership. Providers are subject to vendor hold for any payments that would otherwise occur after notice is given to the state for dates of service prior to the change of ownership. These vendor-hold payments are not released to the provider until all cost and/or accountability reports are submitted and examined by the state. Providers are often not given access to the cost reporting system to even begin their final cost report submission for six to nine months after the effective date of the change of ownership, which creates tremendous cash flow issues for the outgoing provider. Commenters requested the reporting rules described in §355.320 add a requirement that the state ensures cost/accountability report access in the case of a change of ownership within 30 days following the effective date of the change of ownership.

Response: HHSC revised §355.320(b)(11) and (e)(2) to clarify that the providers must submit required reports 60 days from notification of the deadline as determined by HHSC rather than the date of their change of ownership or contract termination.

Comment: Multiple commenters recommended that HHSC remove the proposed clause from 355.318(g)(3) "and to exclude entire cost reports from the reimbursement determination database if there is reason to doubt accuracy or allowability of a significant part of the information reported", and to entirely remove proposed §355.318(g)(3)(A)(i)(II).

Response: HHSC disagrees and declines to revise the rule. HHSC must ensure that the data used to calculate the methodological rates is valid.

Comment: Multiple commenters suggested that HHSC should remove all sections listed under §355.318(g)(3)(B) relating to occupancy adjustments and any other references to occupancy adjustments in the proposed rule, as these provisions are burdensome to rural facilities, and occupancy restrictions are not required by CMS.

Response: HHSC disagrees and declines to revise the rule. The purpose of the occupancy adjustment is to ensure the state reimburses administrative and operations costs for empty Medicaid beds. As mentioned above, HHSC will continue to evaluate the appropriateness of the methodology, including impacts on providers, during the regular biennial fee review process.

Comment: Multiple commenters suggested HHSC should eliminate the requirement listed in §355.320(t)(2) and (3) that aggregation be requested unless the election is included in either the cost report or staff accountable report. They further suggested that aggregation should be automatic with the option for a provider to "opt out" rather than "opt in." Requiring providers to submit an aggregation request annually is administratively burdensome and unnecessary. Automating the aggregation process would reduce paperwork and administrative overhead, allowing providers to focus more on direct patient care.

Response: HHSC disagrees and declines to revise the rule. Aggregation occurs when the provider completes the cost or accountability report by selecting a check box in Step 2 of the report. HHSC allows aggregation as a benefit to providers who are unable to separate business components in their operations. However, aggregation may not be appropriate for all providers.

Comment: One commenter noted their comment was outside the scope of this rule proposal but requested that HHSC endeavor to minimize Long Term Care Medicaid Information (LTCMI) data collection to only the information not available on the MDS.

Response: HHSC agrees this comment is outside of the rule proposal. This comment was shared with agency colleagues who administer the LTCMI for their consideration.

Comment: One commenter suggested that similar spending requirements as outlined in §355.320(u) should apply to hospitals.

Response: This comment is outside the scope of this rule proposal.

HHSC made minor editorial revisions to §355.320 to correct grammar and punctuation.

SUBCHAPTER C. REIMBURSEMENT METHODOLOGY FOR NURSING FACILITIES

1 TAC §§355.304, 355.306 - 355.308, 355.318, 355.320

STATUTORY AUTHORITY

The amendments and new sections are adopted under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

§355.320. Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025.

(a) Introduction. The Texas Health and Human Services Commission (HHSC) establishes the Nursing Care Staff Rate Enhancement Program for Nursing Facilities on or after September 1, 2025. The Nursing Care Staff Rate Enhancement Program for Nursing Facilities established under this section will be implemented pending implementation of the Patient Driven Payment Model (PDPM) for Long-Term Care (LTC), as specified in §355.318 of this subchapter (relating to Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025).

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise.

(1) Combined entity--Combined entities consist of one or more commonly owned corporations and one or more limited partnerships, where the general partner is controlled by the same person as the commonly owned corporation.

(2) Commonly owned corporations--Commonly owned corporations are two or more corporations where five or fewer identical persons who are individuals, estates, or trusts control greater than 50 percent of the total voting power in each corporation.

(3) Control--The entity has greater than 50 percent ownership.

(4) Enrollment contract amendment--An acceptable enrollment contract amendment is defined as a legible document requesting a change in enrollment status that has been completed according to instructions, signed by an authorized representative per the HHSC signature authority designation form applicable to the provider's contract or ownership type, and received by HHSC within 30 days of HHSC's notification to the facility that an enrollment contract amendment must be submitted.

(A) An initial enrollment contract amendment is required from each facility choosing to participate in the Nursing Care Staff Rate Enhancement Program.

(B) Participating and nonparticipating facilities may request to modify their enrollment status (i.e., a nonparticipant can request to become a participant, a participant can request to become a nonparticipant, or a participant can request to change its enhancement level) during any open enrollment period.

(C) Nonparticipants and participants requesting to increase their enrollment levels will be limited to increases of three or fewer enhancement levels during any single open enrollment period unless HHSC waives such limits.

(D) Requests to modify a facility's enrollment status during an open enrollment period must be received by HHSC by the last day of the open enrollment period as per paragraph (8) of this subsection.

(i) If the last day of the open enrollment period falls on a weekend, national holiday, or state holiday, then the first business day following the last day of the open enrollment period is the final day the enrollment contract amendment will be accepted.

(ii) An enrollment contract amendment that is not received by the stated deadline will not be accepted.

(iii) A facility from which HHSC has not received an acceptable request to modify its enrollment by the last day of the open enrollment period will continue at the level of participation in effect during the open enrollment period, within available funds. The facility will continue at that level of enrollment until the facility notifies HHSC following subsection (n) of this section that it no longer wishes to participate, or until the facility's enrollment is limited according to subsection (g) of this section.

(E) If HHSC determines that funds are not available to continue participation at the level in effect during the open enrollment period, facilities will be notified as per subsection (v) of this section.

(5) Entity--An entity is a parent company, sole member, individual, limited partnership, or group of limited partnerships controlled by the same general partner.

(6) Nursing care staff base rate--The nursing care staff base rate is equal to the adopted nursing rate component as specified in §355.318 of this subchapter.

(7) Nursing care staff cost center--The nursing care staff cost center is equal to the PDPM LTC nursing rate component as specified in §355.318 of this subchapter.

(8) Open enrollment--Open enrollment begins on the first day of July and ends on the thirty-first day of July, preceding the rate year for which payments are being determined. HHSC notifies providers of open enrollment via email sent to an authorized representative per the signature authority designation form applicable to the provider's contract or ownership type. Requests to modify a provider's enrollment status during an open enrollment period must be received by HHSC by the last day of the open enrollment period through HHSC's enrollment portal or another method designated by HHSC. If the last day of open enrollment is on a weekend day, state holiday, or national holiday, the next business day will be considered the last day requests will be accepted. If open enrollment has been postponed or canceled, HHSC will notify providers by email before the first day of July. Should conditions warrant, HHSC may conduct additional enrollment periods during a rate year.

(9) Rate year--The standard rate year begins on the first day of September and ends on the last day of August of the following year.

(10) Responsible entity--The contracted provider, owner, or legal entity that received the recouped revenue is responsible for the repayment of any recoupment amount.

(11) Staffing and compensation report--A staffing and compensation report is a report reflecting the provider's activities while delivering contracted services from the first day through the last day of the rate year or provider's cost report year while participating

in the Nursing Care Staff Rate Enhancement Program. Staffing and compensation reports and cost reports functioning as staffing and compensation reports will include any information required by HHSC to implement the Nursing Care Staff Rate Enhancement Program. Staffing and compensation reports must be submitted annually or as specified in subsection (d) of this section. Cost and accountability reports requested by HHSC are considered staffing and compensation reports, and preparers must complete mandatory training requirements per §355.102(d) of this subchapter (relating to General Principles of Allowable and Unallowable Costs). Staffing and compensation reports will be used as the basis for determining compliance with the spending requirements and recoupment amounts as described in subsection (k) of this section. Participating facilities failing to submit an acceptable annual staffing and compensation report within 60 days of notification of the due date for the report as determined by HHSC will be placed on vendor hold until an acceptable report is received and processed by HHSC.

(c) Enrollment for new facilities. For purposes of this section, for each rate year, a new facility is defined as a facility delivering its first day of service to a Medicaid recipient after the first day of the open enrollment period, as defined in subsection (b)(8) of this section. Facilities that underwent an ownership change are not considered new facilities. New facilities will receive the nursing rate component as determined in §355.318 of this subchapter with no enhancements. For new facilities specifying their desire to participate in an acceptable enrollment contract amendment, the nursing rate component is adjusted as specified in subsection (j) of this section, effective on the first day of the month following receipt by HHSC of the acceptable enrollment contract amendment. If the granting of newly requested enhancements was limited as per subsection (g) of this section during the most recent enrollment, enrollment for new facilities will be subject to that same limitation.

(d) Reporting requirements.

(1) All participating facilities will provide HHSC, in a method specified by HHSC, an annual staffing and compensation report reflecting the activities of the facility while delivering contracted services from the first day through the last day of the rate year.

(2) When a participating facility changes ownership, the prior owner must submit a staffing and compensation report covering the period from the beginning of the rate year to the date recognized by HHSC or its designee as the ownership-change effective date. This report will be used as the basis for determining any recoupment amounts as described in subsection (k) of this section. The new owner will be required to submit a staffing and compensation report covering the period from the day after the date recognized by HHSC or its designee as the ownership change effective date to the end of the rate year.

(3) Participating facilities whose contracts are terminated either voluntarily or involuntarily must submit a staffing and compensation report covering the period from the beginning of the rate year to the date recognized by HHSC or its designee as the contract termination date. This report will be used as the basis for determining any recoupment amounts as described in subsection (k) of this section.

(4) Participating facilities who voluntarily withdraw from participation as per subsection (n) of this section must submit a staffing and compensation report within 60 days of the due date of the report as determined by HHSC, covering the period from the beginning of the rate year to the date of withdrawal as determined by HHSC. This report will be used as the basis for determining any recoupment amounts as described in subsection (k) of this section.

(5) For new facilities, as defined in subsection (c) of this section, the reporting period will begin with the effective date of participation in enhancement.

(6) Existing facilities that become participants in the enhancement as a result of the open enrollment process described in subsection (b)(8) of this section on any day other than the first day of their fiscal year are required to submit a staffing and compensation report with a reporting period that begins on their first day of participation in the enhancement and ends on the last day of the facility's fiscal year. This report will be used as the basis for determining any recoupment amounts as described in subsection (k) of this section.

(7) A participating provider that is required to submit a staffing and compensation report under this paragraph will be excused from the requirement to submit a report if the provider did not provide any billable services to Medicaid recipients during the reporting period.

(8) Reports must be received before the date the provider is notified of compliance with spending requirements for the report in question as per subsection (k) of this section.

(9) HHSC may require other staffing and compensation reports from all facilities as needed.

(e) Vendor hold. HHSC or its designee will place on hold the vendor payments for any participating facility that does not submit a timely report as described in subsection (d) of this section. This vendor hold will remain in effect until HHSC receives an acceptable report.

(1) Participating facilities that do not submit an acceptable report completed in compliance with all applicable rules and instructions within 60 days of the due dates described in this subsection or, for cost reports, the due dates described in §355.105(b) of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures), will become nonparticipants retroactive to the first day of the reporting period in question and will be subject to immediate recoupment of funds related to participation paid to the facility for services provided during the reporting period in question. These facilities will remain nonparticipants, and recouped funds will not be restored until they submit an acceptable report and repay to HHSC or its designee funds identified for recoupment from subsection (k) of this section. If an acceptable report is not received within 365 days of the due date, the recoupment will become permanent, and if all funds associated with participation during the reporting period in question have been recouped by HHSC or its designee, the vendor hold associated with the report will be released.

(2) Participating facilities with an ownership change or contract termination that do not submit an acceptable report completed in accordance with all applicable rules and instructions within 60 days of notification of the due date for the report as determined by HHSC will become nonparticipants retroactive to the first day of the reporting period in question. These facilities will be subject to an immediate recoupment of funds related to participation paid to the facility for services provided during the reporting period in question. These facilities will remain nonparticipants, and recouped funds will not be restored until they submit an acceptable report and repay to HHSC or its designee funds identified for recoupment from subsection (k) of this section. If an acceptable report is not received within 365 days of the change of ownership or contract termination date, the recoupment will become permanent, and if all funds associated with participation during the reporting period in question have been recouped by HHSC or its designee, the vendor hold associated with the report will be released.

(f) Completion of Reports. All staffing and compensation reports must be completed in compliance with the provisions of

§§355.102 - 355.105 of this chapter (relating to General Principles of Allowable and Unallowable Costs; Specifications for Allowable and Unallowable Costs; Revenues; and General Reporting and Documentation Requirements, Methods, and Procedures, respectively) and may be reviewed or audited in accordance with §355.106 of this chapter (relating to Basic Objectives and Criteria for Audit and Desk Review of Cost Reports). All staffing and compensation reports must be completed by preparers who have attended the required nursing facility cost report training as per §355.102(d) of this chapter.

(g) Enrollment limitations. A facility will not be enrolled in the Nursing Care Staff Rate Enhancement Program at a level higher than the level it achieved on its most recently available audited staffing and compensation report. HHSC will notify a facility of its enrollment limitations (if any) before the first day of the open enrollment period.

(1) Notification of enrollment limitations. The enrollment limitation level is indicated in the State of Texas Automated Information Reporting System (STAIRS), the online application for submitting cost and accountability reports. STAIRS will generate an email to the entity contact, indicating that the facility's enrollment limitation level is available for review. The entity contact is the provider's authorized representative per the signature authority designation form applicable to the provider's contract or ownership type.

(2) Enrollment after a limitation. At no time will a facility be allowed to enroll in the enhancement program at a level higher than its current level of enrollment plus three additional levels unless otherwise instructed by HHSC.

(3) New owners after a change of ownership. Enhancement levels for a new owner after a change of ownership will be determined according to subsection (s) of this section. A new owner will not be subject to enrollment limitations based on the prior owner's performance. This exemption from enrollment limitations does not apply in cases where HHSC or its designee has approved a successor-liability-agreement that transfers responsibility from the former owner to the new owner.

(4) New facilities. A new facility's enrollment will be determined according to subsection (c) of this section.

(h) Determination of nursing care staff component enhancements. HHSC will determine a per diem add-on payment for each nursing rate component enhancement level using data from sources such as cost reports, surveys, or other relevant sources and considering the quality of care, labor market conditions, economic factors, and budget constraints. The nursing rate component enhancement add-ons will be determined on a per-unit-of-service basis. Add-on payments may vary by enhancement level.

(i) Granting of nursing staff rate enhancements. HHSC divides all requested enhancements, after applying any enrollment limitations from subsection (g) of this section, into two groups: pre-existing enhancements that facilities request to carry over from the prior year and newly requested enhancements. Newly requested enhancements may be enhancements requested by facilities that were nonparticipants in the prior year or by facilities that were participants in the prior year, desiring to be granted additional enhancements. Using the process described herein, HHSC first determines the distribution of carry-over enhancements. If HHSC determines that funds are not available to carry over some or all pre-existing enhancements, facilities will be notified as per subsection (v) of this section. If funds are available after the distribution of carry-over enhancements, HHSC then determines the distribution of newly requested enhancements. HHSC may not distribute newly requested enhancements to facilities owing funds identified for recoupment from subsection (k) of this section.

(1) HHSC determines projected Medicaid units of service for facilities requesting each enhancement option and multiplies this number by the rate add-on associated with that enhancement option as determined in subsection (h) of this section.

(2) HHSC compares the sum of the products from paragraph (1) of this subsection to available funds:

(A) if the product is less than or equal to available funds, all requested enhancements are granted; or

(B) if the product is greater than available funds, enhancements are granted beginning with the lowest level of enhancement and granting each successive level of enhancement until requested enhancements are granted within available funds. Based on an examination of existing staffing levels and staffing needs, HHSC may grant certain enhancement options priority for distribution.

(3) Notification of granting of enhancements. Participating facilities are notified of the status of their request for rate enhancements in a manner determined by HHSC.

(4) In cases where more than one enhanced rate level is in effect during the reporting period, the spending requirement will be based on the weighted average enhanced rate level in effect during the reporting period calculated as follows.

(A) Multiply the first enhanced rate level in effect during the reporting period by the most recently available reliable Medicaid days of service utilization data for the time period the first enhanced rate level was in effect.

(B) Multiply the second enhanced rate level in effect during the reporting period by the most recently available reliable Medicaid days of service utilization data for the time period the second enhanced rate level was in effect.

(C) Sum the products from subparagraphs (A) and (B) of this paragraph.

(D) Divide the sum from subparagraph (C) of this paragraph by the sum of the most recently available reliable Medicaid days of service utilization data for the entire reporting period used in subparagraphs (A) and (B) of this paragraph.

(j) Determine each participating facility's total nursing rate component. Each participating facility's total nursing rate component will be equal to the nursing care staff base rate as defined in subsection (b)(6) of this section, plus any add-on payments associated with staffing enhancements selected by and awarded to the facility during open enrollment. HHSC will determine a per diem add-on payment for each enhanced staffing level informed by analysis of the most recently available reliable data relating to staff compensation levels and available appropriations for the program as specified in subsection (h) of this section.

(k) Spending requirements for participants. Participating facilities are subject to a nursing care staff spending requirement with recoupment calculated as follows.

(1) Effective September 1, 2023, HHSC will complete calculations associated with nursing care rate increases and spending requirements in compliance with §355.304 of this subchapter (relating to Direct Care Staff Spending Requirement on or after September 1, 2023).

(2) At the end of the rate year, a spending floor will be calculated by multiplying accrued Medicaid fee-for-service and managed care nursing care staff revenues by 0.70.

(3) Accrued allowable Medicaid nursing care staff fee-for-service expenses for the rate year will be compared to the spending floor from paragraph (2) of this subsection. HHSC or its designee will recoup the difference between the spending floor and accrued allowable Medicaid nursing care staff fee-for-service expenses from facilities whose Medicaid nursing care staff spending is less than their spending floor.

(4) At no time will a participating facility's nursing care rates after spending recoupment be less than the nursing care staff base rates.

(l) Dietary and Fixed Capital Mitigation. Recoupment of funds described in subsection (k) of this section may be mitigated by high dietary and fixed capital expenses as follows.

(1) Calculate dietary cost deficit. At the end of the facility's rate year, accrued Medicaid dietary per diem revenues will be compared to accrued, allowable Medicaid dietary per diem costs. If costs are greater than revenues, the dietary per diem cost deficit will be equal to the difference between accrued, allowable Medicaid dietary per diem costs and accrued Medicaid dietary per diem revenues. If costs are less than revenues, the dietary cost deficit will be equal to zero.

(2) Calculate dietary revenue surplus. At the end of the facility's rate, accrued Medicaid dietary per diem revenues will be compared to accrued, allowable Medicaid dietary per diem costs. If revenues are greater than costs, the dietary per diem revenue surplus will be equal to the difference between accrued Medicaid dietary per diem revenues and accrued, allowable Medicaid dietary per diem costs. If revenues are less than costs, the dietary revenue surplus will be equal to zero.

(3) Calculate fixed capital cost deficit. At the end of the facility's rate year, accrued Medicaid fixed capital asset per diem revenues will be compared to accrued, allowable Medicaid fixed capital asset per diem costs. Allowable fixed capital asset costs are defined in §355.318(d)(4)(C) of this subchapter. If costs are greater than revenues, the fixed capital cost per diem deficit will be equal to the difference between accrued, allowable Medicaid fixed capital per diem costs and accrued Medicaid fixed capital per diem revenues. If costs are less than revenues, the fixed capital cost deficit will be equal to zero. For purposes of this paragraph, fixed capital per diem costs of facilities with occupancy rates below 85 percent are adjusted to the cost per diem the facility would have accrued had it maintained an 85 percent occupancy rate throughout the rate year.

(4) Calculate fixed capital revenue surplus. At the end of the facility's rate year, accrued Medicaid fixed capital asset per diem revenues will be compared to accrued, allowable Medicaid fixed capital asset per diem costs. Allowable fixed capital asset costs are defined in §355.318(d)(4)(C) of this subchapter. If revenues are greater than costs, the fixed capital revenue per diem surplus will be equal to the difference between accrued Medicaid fixed capital per diem revenues and accrued, allowable Medicaid fixed capital per diem costs. If revenues are less than costs, the fixed capital revenue surplus will be equal to zero. For purposes of this paragraph, fixed capital per diem costs of facilities with occupancy rates below 85 percent are adjusted to the cost per diem the facility would have accrued had it maintained an 85 percent occupancy rate throughout the rate year.

(5) Mitigation of a dietary per diem cost deficit. Facilities with a dietary per diem cost deficit will have their dietary per diem cost deficit reduced by their fixed capital per diem revenue surplus, if any. Any remaining dietary per diem cost deficit will be capped at $2.00 per diem.

(6) Mitigation of a fixed capital cost per diem deficit. Facilities with a fixed capital cost per diem deficit will have their fixed capital cost per diem deficit reduced by their dietary revenue per diem surplus, if any. Any remaining fixed capital per diem cost deficit will be capped at $2.00 per diem.

(7) Recoupment calculation. Each facility's recoupment, as calculated in subsection (k) of this section, will be reduced by the sum of that facility's dietary per diem cost deficit, as calculated in paragraph (5) of this subsection, and its fixed capital per diem cost deficit as calculated in paragraph (6) of this subsection.

(m) Adjusting spending requirements. Facilities that determine that they will not be able to meet their spending requirements from subsection (k) of this section may request a reduction in their spending requirements and associated rate add-on. These requests will be effective on the first day of the month following approval of the request.

(n) Voluntary withdrawal. Facilities wishing to withdraw from participation must notify HHSC in writing by certified mail, and the request must be signed by an authorized representative as designated per the HHSC signature authority designation form applicable to the provider's contract or ownership type. Facilities voluntarily withdrawing must remain nonparticipants for the remainder of the rate year. The participation end date for facilities voluntarily withdrawing from the program will be effective on the date of the withdrawal, as determined by HHSC.

(o) Notification of recoupment based on annual staffing and compensation report or cost report. The estimated amount to be recouped is indicated in STAIRS. STAIRS will generate an email to the entity contact, indicating that the facility's estimated recoupment is available for review. If HHSC's subsequent review of the staffing and compensation report results in report adjustments that change the amount to be repaid to HHSC or its designee, the facility's entity contact will be notified by email that the adjustments and the adjusted amount to be repaid are available in STAIRS for review. HHSC or its designee will recoup any amount owed from a facility's vendor payments following the date of the initial or subsequent notification.

(p) Change of ownership and contract terminations.

(1) Facilities required to submit a staffing and compensation report due to a change of ownership or contract termination as described in subsection (d) of this section will have funds held as per 26 TAC §554.210 (relating to Change of Ownership and Notice of Changes) until HHSC receives an acceptable staffing and compensation report and funds identified for recoupment from subsection (k) of this section are repaid to HHSC or its designee. Informal reviews and formal appeals relating to these reports are governed by §355.110 of this chapter(relating to Informal Reviews and Formal Appeals). HHSC or its designee will recoup any amount owed from the facility's vendor payments that are being held. In cases where funds identified for recoupment cannot be repaid from the held vendor payments, the responsible entity, as defined in subsection (b)(10) of this section, will be jointly and severally liable for any additional payment due to HHSC or its designee. Failure to repay the amount due or submit an acceptable payment plan within 60 days of notification will result in the recoupment of the owed funds from other Medicaid contracts controlled by the responsible entity, placement of a vendor hold on all Medicaid contracts controlled by the responsible entity and will bar the responsible entity from receiving any new contracts with HHSC or its designees until repayment is made in full. The responsible entity for these contracts will be notified as described in subsection (o) of this section before the recoupment of owed funds, placement of vendor hold, and barring of new contracts.

(2) Participation in the Nursing Care Staff Rate Enhancement Program transfers to the new owner as defined in 26 TAC §554.210 when there is a change of ownership. The new owner is responsible for the reporting requirements in subsection (d) of this section for any reporting period days occurring after the change. If the change of ownership occurs during an open enrollment period as defined in subsection (b)(8) of this section, then the owner recognized by HHSC or its designee on the last day of the enrollment period may request to modify the enrollment status of the facility.

(q) Failure to document staff spending. Undocumented nursing care staff and contract labor compensation costs will be disallowed and will not be used in the determination of nursing care staff costs per unit of service.

(r) Appeals. The subject matter of informal reviews and formal appeals is limited as per §355.110(a)(3) of this chapter.

(s) Contract cancellations. If a facility's Medicaid contract is canceled before the first day of an open enrollment period as defined in subsection (b)(8) of this section, and the facility is not granted a new contract until after the last day of the open enrollment period, participation in the Nursing Care Staff Rate Enhancement Program as it existed before the cancellation date of the facility's contract will be reinstated when the facility is granted a new contract. The contract must be under the same ownership, and reinstatement is subject to the availability of funding. Any enrollment limitations from subsection (g) of this section that would have applied to the canceled contract will apply to the new contract.

(t) Determination of compliance with spending requirements in the aggregate.

(1) Aggregation. For an entity, commonly owned corporation, or combined entity that controls more than one participating nursing facility contract, compliance with the spending requirements detailed in subsection (k) of this section can be determined in the aggregate for all participating nursing facility contracts controlled by the entity, commonly owned corporations, or combined entity at the end of the rate year, the effective date of the change of ownership of its last participating contract, or the effective date of the termination of its last participating contract rather than requiring each contract to meet its spending requirement individually. Corporations that do not meet the definitions under subsection (b) of this section are not eligible for aggregation to meet spending requirements.

(2) Aggregation Request. To exercise aggregation, the entity, combined entity, or commonly owned corporations must submit an aggregation request in a manner prescribed by HHSC when each staffing and compensation report is submitted. In limited partnerships in which the same single general partner controls all the limited partnerships, the single general partner must make this request. Other such aggregation requests will be reviewed on a case-by-case basis.

(3) Frequency of Aggregation Requests. The entity, combined entity, or commonly owned corporation must submit a separate request for aggregation for each reporting period.

(4) Ownership changes or terminations. Nursing facility contracts that change ownership or terminate, effective after the end of the applicable reporting period but before the determination of compliance with spending requirements as per subsection (k) of this section, are excluded from all aggregate spending calculations. These contracts' compliance with spending requirements will be determined on an individual basis, and the costs and revenues will not be included in the aggregate spending calculation.

(u) Medicaid Swing Bed Program for Rural Hospitals. When a rural hospital participating in the Medicaid swing bed program furnishes nursing care to a Medicaid recipient under 26 TAC §554.2326 (relating to Medicaid Swing Bed Program for Rural Hospitals), HHSC or its designee pays the hospital using the same procedures, the same case-mix methodology, and the same PDPM LTC rates that HHSC authorizes for reimbursing nursing facilities receiving the nursing rate component with no enhancement levels. These hospitals are not subject to the staffing and spending requirements detailed in this section.

(v) Notification of lack of available funds. If HHSC determines that funds are not available to continue participation for facilities from which it has not received an acceptable request to modify their enrollment by the last day of an enrollment period as per subsection (b)(8) of this section or to fund carry-over enhancements as per subsection (i) of this section, HHSC will notify providers in a manner determined by HHSC that such funds are not available.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024

TRD-202403906
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: September 12, 2024
Proposal publication date: May 3, 2024
For further information, please call: (737) 867-7817

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1 TAC §355.309, §355.314

STATUTORY AUTHORITY

The repeals are adopted under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403907
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Effective date: September 12, 2024
Proposal publication date: May 3, 2024
For further information, please call: (737) 867-7817

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY
SUBCHAPTER EE. ACCREDITATION STATUS, STANDARDS, AND SANCTIONS
DIVISION 1. STATUS, STANDARDS, AND SANCTIONS

19 TAC §§97.1055, 97.1057, 97.1059, 97.1067, 97.1069, 97.1073

The Texas Education Agency (TEA) adopts amendments to §§97.1055, 97.1057, 97.1059, 97.1067, 97.1069, and 97.1073, concerning accreditation status, standards, and sanctions. The amendments are adopted without changes to the proposed text as published in the May 24, 2024 issue of the *Texas Register* (49 TexReg 3689) and will not be republished. The adopted amendments establish that a superintendent appointed in conjunction with a board of managers assumes office immediately upon appointment and update cross references to statute and other administrative rules.

REASONED JUSTIFICATION: The adopted amendments to §97.1055 and §97.1059 update the references to the title of 19 TAC Chapter 157, Hearings and Appeals, Subchapter EE, which was changed from "Informal Review, Formal Review, and Review by State Office of Administrative Hearings" to "Informal Review, Hearing Following Investigation, and Review by State Office of Administrative Hearings" effective April 6, 2022.

Adopted changes to §97.1055 also update the references to 19 TAC §97.1005, Results Driven Accountability, which was repealed and incorporated into 19 TAC §97.1001, Accountability Rating System, effective November 14, 2023.

The adopted amendment to §97.1057 updates statutory references to align with House Bill 3, 86th Texas Legislature, 2019, which transferred and redesignated Texas Education Code (TEC), §42.258, to TEC, §48.272. The adopted amendment also updates a cross reference to 19 TAC §100.1023, Intervention Based on Charter Violations, which is proposed to be renumbered to 19 TAC §100.1045.

The adopted amendments to §97.1067 and §97.1069 update statutory references to align with Senate Bill 1488, 85th Texas Legislature, Regular Session, 2017, which transferred and redesignated TEC, §39.107, to TEC, §§39A.152-39A.159, and transferred and redesignated TEC, §39.108, to TEC, §39A.901.

The adopted amendment to §97.1073 establishes that a superintendent appointed in conjunction with a board of managers assumes office immediately upon appointment to clarify when the appointed superintendents take on their responsibilities.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began May 24, 2024, and ended June 24, 2024. No public comments were received.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code, (TEC), §39.051, which requires the commissioner of education to determine accreditation statuses; TEC, §39.052, which establishes the requirements for the commissioner to consider when determining accreditation statuses; TEC, §39A.152, which establishes eligibility requirements an entity to be an alternative manager of a campus; TEC, §39A.153, which establishes requirements for contracting with an alternative managing entity; TEC, §39A.154, which allows the commissioner to require a district to extend a contract with a management entity; TEC, §39A.155, which establishes requirements for evaluating the performance of a management entity; TEC, §39A.156, which establishes the conditions under which a management contract must be cancelled; TEC, §39A.157, which establishes requirements for returning the management of a school district back to the board of trustees; TEC, §39A.158, which establishes that campuses operated by a managing entity are still subject to TEC, Chapters 39 and 39A; TEC, §39A.159, which establishes that the funding for a campus operated by a managing entity may not be less than other campuses in the same district; TEC, §39A.202, which requires the commissioner to appoint a district superintendent when appointing a board of managers; and TEC, §39A.901, which requires the commissioner to annually review the performance of school district or campus undergoing interventions, sanctions, or alternative management to determine appropriate actions.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§39.051, 39.052, 39A.152-39A.159, 39A.202, and 39A.901.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 21, 2024.

TRD-202403848
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: September 10, 2024
Proposal publication date: May 24, 2024
For further information, please call: (512) 475-1497

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CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT AND CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts new §§127.30, 127.45 - 127.58, 127.86, 127.87, 127.795, 127.796, 127.887 - 127.890, and 127.920, concerning Texas Essential Knowledge and Skills (TEKS) for career development and career and technical education (CTE). Sections 127.30, 127.45 - 127.58, 127.795, 127.889, 127.890, and 127.920 were adopted with changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1185) and will be republished. Sections 127.86, 127.87, 127.796, 127.887, and 127.888 were adopted without changes to the proposed text as published in the March 1, 2024 issue of the *Texas Register* (49 TexReg 1185) and will not be republished. The new sections update and add new TEKS for courses in the agribusiness, animal science, plant science, and aviation maintenance programs of study as well as update TEKS for two science, technology, engineering, and mathematics (STEM) courses that may satisfy science graduation requirements to ensure the content of the courses remains current and supports relevant and meaningful programs of study.

REASONED JUSTIFICATION: In accordance with statutory requirements that the SBOE identify by rule the essential knowledge and skills of each subject in the required curriculum, the

SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

During the November 2022 meeting, the SBOE approved a timeline for the review of CTE courses for 2022-2025. Also at the meeting, the SBOE approved a specific process to be used in the review and revision of the CTE TEKS. The CTE-specific process largely follows the process for TEKS review for other subject areas but was adjusted to account for differences specific to CTE. The 2022-2025 CTE cycle identified two reviews, beginning with the winter 2023 review of a small group of courses in career preparation and entrepreneurship. An abbreviated version of the new CTE TEKS review process was used for the winter 2023 review. The second review in the 2022-2025 CTE TEKS review cycle began in summer 2023. The complete CTE TEKS review process was used for the summer 2023 CTE TEKS review.

Applications to serve on the summer 2023 CTE TEKS review work groups were collected by the Texas Education Agency (TEA) from February through July 2023. TEA staff provided SBOE members with batches of applications for approval to serve on a CTE work group in April and May 2023. Work groups were convened to develop recommendations for the CTE courses in May, June, August, and September 2023.

The adoption ensures the standards for agribusiness, animal science, plant science, aviation maintenance, and STEM courses that may satisfy science graduation requirements remain current and support relevant and meaningful programs of study. A discussion item regarding proposed revisions to the TEKS for these courses was presented to the Committee of the Full Board at the November 2023 SBOE meeting. The work groups met for a final time in November-December 2023 to address feedback from the SBOE and others and to finalize their recommendations for the new standards.

Adopted new TEKS for courses in the agribusiness, animal science, plant science, and aviation maintenance programs of study as well as two STEM courses that may satisfy science graduation requirements were approved for first reading and filing authorization at the January-February 2024 SBOE meeting.

The following changes were made since approved for first reading and filing authorization.

The student expectations in §§127.30(d)(1)(E), 127.45(d)(1)(E), 127.48(d)(1)(E), 127.49(d)(1)(E), 127.50(d)(1)(E), and 127.55(d)(1)(E) were amended to read, "describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy."

The student expectations in §§127.46(d)(1)(E), 127.47(d)(1)(E), 127.51(d)(1)(E), 127.52(d)(1)(E), 127.53(d)(1)(E), 127.54(d)(1)(E), 127.56(d)(1)(E), 127.57(d)(1)(E), and 127.58(d)(1)(E) were replaced with new student expectations to read, "describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy."

The student expectation in §127.46(d)(4)(B) was amended by adding "domestic and" before "global context."

A new student expectation was added in §127.58(d)(18)(C) to read, "explain growing plants without soil (hydroponic techniques)."

A new student expectation was added in §127.58(d)(18)(D) to read, "evaluate advantages and disadvantages of hydroponics."

The course title for §127.795 changed from Applied Physics and Engineering (One Credit), Adopted 2024 to Physics for Engineering (One Credit), Adopted 2024.

The student expectation in §127.889(d)(6)(C) was amended by adding the term "foreign object debris" to clarify the meaning of the acronym "FOD."

The student expectation in §127.889(d)(20)(H) was amended by replacing the acronym "FOD" with the terms "foreign object debris" and "foreign object damage."

A new student expectation was added in §127.890(d)(18)(E) to read, "identify cotter pin requirements and techniques."

A new student expectation was added in §127.890(d)(19)(C) to read, "install cotter pins on hardware such as nuts and bolts."

The student expectation in §127.890(d)(20)(J) was amended by adding the acronym "FOD" after the term "foreign object damage."

The student expectation in §127.890(d)(21)(A) was amended by adding the acronym "FOD" after the term "foreign object damage."

The SBOE approved the new sections for first reading and filing authorization at its February 2, 2024 meeting and for second reading and final adoption at its April 12, 2024 meeting.

In accordance with Texas Education Code, §7.102(f), the SBOE approved the new sections for adoption by a vote of two-thirds of its members to specify an effective date earlier than the beginning of the 2024-2025 school year. The earlier effective date will enable districts to begin preparing for implementation of the revised agriculture, food, and natural resources; aviation maintenance; and STEM TEKS. The effective date is 20 days after filing as adopted with the Texas Register.

SUMMARY OF COMMENTS AND RESPONSES: The public comment period on the proposal began March 1, 2024, and ended at 5:00 p.m. on April 1, 2024. The SBOE also provided an opportunity for registered oral and written comments at its April 2024 meeting in accordance with the SBOE board operating policies and procedures. Following is a summary of the public comments received and corresponding responses.

Comment. One teacher suggested that §127.30, Principles of Agriculture, Food, and Natural Resources, should be a required prerequisite instead of a recommended prerequisite for courses in the agriculture, food, and natural resources (AFNR) career cluster.

Response. The SBOE disagrees and has determined that the Principles of Agriculture, Food, and Natural Resources course is appropriate as a recommended prerequisite for courses in the AFNR career cluster as proposed.

Comment. One teacher stated that §127.50, Small Animal Management, should be increased from one-half credit to one credit.

Response. The SBOE disagrees and has determined that one credit is the appropriate amount of credit for the Small Animal Management course as proposed.

Comment. One community member suggested adding a student expectation about corrosion control under the knowledge and skills statement §127.888(d)(2), relating to Aircraft Airframe Technology.

Response. The SBOE disagrees and has determined that corrosion control is sufficiently addressed in the knowledge and skills statements in §127.890(d)(22) and (23), relating to Aircraft Maintenance Technology, which is a prerequisite for Aircraft Airframe Technology.

Comment. One community member suggested adding a student expectation on the importance of an electrical ground path under the knowledge and skills statement in §127.888(d)(12) or (22), relating to Aircraft Airframe Technology.

Response. The SBOE disagrees and has determined that the importance of an electrical ground path is sufficiently addressed under the student expectation in §127.890(d)(6)(A), relating to Aircraft Maintenance Technology, which is a prerequisite for Aircraft Airframe Technology.

Comment. One community member suggested adding a student expectation on how to read a multimeter and troubleshoot wire shorts and intermediate faults under the knowledge and skills statement in §127.888(d)(22), relating to Aircraft Airframe Technology.

Response. The SBOE disagrees and has determined that how to read a multimeter and troubleshoot wire shorts and intermediate faults are sufficiently addressed in the student expectation in §127.890(d)(7)(A), relating to Aircraft Maintenance Technology, which is a prerequisite for Aircraft Airframe Technology.

Comment. One community member suggested adding a student expectation on the use of a torque wrench, safety wire, and cotter pin to the Aircraft Airframe Technology course.

Response. The SBOE disagrees that the use of a torque wrench and safety wire are necessary. Both are sufficiently covered in the student expectations in §127.890(d)(16)(C), (18)(G), and (19)(D), relating to Aircraft Maintenance Technology. However, the SBOE agrees that it is important to include information on cotter pins and took action to add new §127.890(d)(18)(E) to read, "identify cotter pin requirements and techniques" and new §127.890(d)(19)(C) to read, "install cotter pins on hardware such as nuts and bolts."

Comment. One community member expressed concern that the amount of credit students would earn for the proposed new CTE courses in aviation maintenance may not be sufficient considering the research and skill application required in the courses.

Response. The SBOE disagrees and has determined that the amount of credit for the aviation maintenance courses is appropriate as proposed.

Comment. One community member asked if the student expectations under §127.887(d)(2), Introduction to Aircraft Technology, include discussion of dangerous good shipping.

Response. The SBOE provides the following clarification. Student expectations under §127.887(d)(2), Introduction to Aircraft Technology, do not explicitly include dangerous good shipping because the topic is not included in the airman certification standards for aviation maintenance.

Comment. One community member asked if the student expectations under §127.887(c)(4) include discussion of salary potential.

Response. The SBOE provides the following clarification. Student expectations in §127.887(c)(4), Introduction to Aircraft Technology, do not address the topic of salary potential. However, salary potential is appropriately included in the student expectation in §127.920(d)(1)(H), relating to Advanced Transportation Systems Laboratory.

Comment. One community member asked if the student expectation in §127.887(d)(2)(C), relating to Introduction to Aircraft Technology, is referencing paper or electronic research.

Response. The SBOE provides the following clarification. Section 127.887(d)(2)(C) does not specify paper or electronic research; therefore, the mode of research may be determined by the classroom teacher or local education agency.

Comment. One administrator expressed agreement with the proposed revisions to the CTE TEKS.

Response. The SBOE agrees and took action to adopt the proposed new CTE TEKS as amended.

Comment. One community member expressed support for the proposed new CTE TEKS in aviation maintenance.

Response. The SBOE agrees and took action to adopt the proposed new CTE TEKS in aviation maintenance as amended.

SUBCHAPTER C. AGRICULTURE, FOOD, AND NATURAL RESOURCES

19 TAC §§127.30, 127.45 - 127.58, 127.86, 127.87

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(j), which allows the SBOE by rule to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002; and TEC, §28.025(b-2)(2), which requires the SBOE to allow a student by rule to comply with the curriculum requirements for the third and fourth mathematics credits under TEC, §28.025(b-1)(2), or the third and fourth science credits under TEC, §28.025(b-1)(3), by successfully completing a CTE course designated by the SBOE as containing substantially similar and rigorous content.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a), (c), and (j); and 28.025(a) and (b-2)(2).

§127.30. Principles of Agriculture, Food, and Natural Resources (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products and resources.

(3) In Principles of Agriculture, Food, and Natural Resources, students explore major areas of agriculture, food, and natural resources, including organizations, agribusiness leadership and communications, plant science, animal science, food science and technology, agricultural technology and mechanical systems, and environmental and natural resources. To prepare for careers in agriculture, food, and natural resources, students must attain academic knowledge and skills, acquire technical knowledge and skills related to the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, experience, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in agriculture, food, and natural resources;

(B) identify and demonstrate interpersonal, problem-solving, and critical-thinking skills in agriculture, food, and natural resources;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices in agriculture, food, and natural resources.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands the agriculture industry in Texas and the United States. The student is expected to:

(A) identify top agricultural commodities, exports, and imports in Texas and the United States; and

(B) identify regions of commodity production such as regions that produce livestock, corn, wheat, dairy products, and cotton and explain the correlation between the region and the commodity.

(5) The student explains the historical, current, and future significance of the agriculture, food, and natural resources industry. The student is expected to:

(A) define agriculture and identify the sectors of the agriculture industry;

(B) analyze the impact agriculture, food, and natural resources have on society;

(C) identify and explain significant historical and current events that have impacted the agriculture industry;

(D) identify issues that may impact agriculture, food, and natural resources systems, including related domestic and global systems, now and in the future;

(E) identify and discuss major innovations in the fields of agriculture, food, and natural resources;

(F) describe how emerging technologies such as online mapping systems, drones, and robotics impact agriculture, food, and natural resources; and

(G) compare how different issues such as biotechnology, employment, safety, environmental, and animal welfare issues impact agriculture, food, and natural resources industries.

(6) The student understands opportunities for leadership development in student organizations within agriculture, food, and natural resources. The student is expected to:

(A) describe the history, structure, and development of and opportunities in student organizations in the agriculture, food, and natural resources career cluster;

(B) develop and demonstrate leadership and personal growth skills and collaborate with others to accomplish organizational goals and objectives; and

(C) demonstrate use of parliamentary procedures when conducting meetings.

(7) The student identifies opportunities for involvement in professional agricultural organizations. The student is expected to:

(A) discuss the role of agricultural organizations in formulating public policy;

(B) develop strategies for effective participation in agricultural organizations; and

(C) identify and discuss the purpose of various professional agricultural organizations.

(8) The student demonstrates skills related to agribusiness, leadership, and communications. The student is expected to:

(A) demonstrate written and oral communication skills appropriate for formal and informal situations such as prepared and extemporaneous presentations;

(B) identify and demonstrate effective customer service skills, including appropriate listening techniques and responses; and

(C) explain the impact of marketing and advertising on the agricultural industry.

(9) The student applies a scientific process to agriculture, food, and natural resources topics. The student is expected to:

(A) identify and select an important agricultural issue, question, or principle;

(B) develop and test a hypothesis for the selected issue, question, or principle;

(C) collect and analyze data for the selected agricultural issue, question, or principle; and

(D) present findings and conclusions based on research performed using scientific practices.

(10) The student applies problem-solving, mathematical, and organizational skills to maintain financial or logistical records. The student is expected to:

(A) identify the components of and develop a formal business plan for an agricultural enterprise; and

(B) develop, maintain, and analyze records for an agricultural enterprise.

(11) The student develops technical knowledge and skills related to plant and soil systems. The student is expected to:

(A) define plant and soil science and analyze the relevance of horticulture, agronomy, forestry, and floriculture;

(B) identify the components and properties of soils;

(C) describe the basic structure and functions of plant parts;

(D) identify and use techniques for plant germination, growth, and development; and

(E) identify and use tools, equipment, and personal protective equipment common to plant and soil systems.

(12) The student develops technical knowledge and skills related to animal systems. The student is expected to:

(A) define animal science and analyze the relevance of animal selection, production, and marketing in the industry;

(B) analyze the roles and how animals benefit the agriculture industry;

(C) identify basic external anatomy of animals in agriculture;

(D) identify and classify breeds of livestock; and

(E) identify and use tools, equipment, and proper handling techniques related to animal systems.

(13) The student describes the principles of food products and processing systems. The student is expected to:

(A) identify food products and processing systems;

(B) identify emerging technologies and trends in domestic and global food production;

(C) compare various food labels;

(D) discuss current issues in food production; and

(E) identify and use tools, equipment, and personal protective equipment common to food products and processing systems.

(14) The student safely performs skills related to agricultural technology and mechanical systems. The student is expected to:

(A) identify the major disciplines of agricultural technology and mechanical systems;

(B) demonstrate basic measuring practices with accuracy;

(C) create a bill of materials and a technical drawing for a proposed agricultural engineering project;

(D) identify common building tools, materials, and fasteners; and

(E) identify and use tools, equipment, and personal protective equipment common to agricultural technology and mechanical systems.

(15) The student explains the principles of environmental and natural resources. The student is expected to:

(A) identify natural resources of economic importance to Texas agriculture;

(B) explain the relationship between agriculture and environmental and natural resources;

(C) identify and describe regulations and governmental programs related to environmental and natural resources, including water regulations, pesticide usage, and hunting and fishing laws;

(D) identify and compare alternative energy sources that stem from or impact environmental and natural resources; and

(E) identify and compare energy and water conservation methods.

§127.45. Professional Standards and Communication in Agribusiness (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Professional Standards and Communication in Agribusiness focuses on leadership, communication, employer-employee relations, and problem solving as they relate to agribusiness. To prepare for careers in agribusiness systems, students must attain academic knowledge and skills, acquire technical knowledge and skills related to leadership development and communications in agriculture, and develop knowledge and skills regarding agricultural career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the field of agribusiness;

(B) identify and demonstrate interpersonal, problem-solving, and critical-thinking skills used in agriculture, food, and natural resources industries;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) apply proper record-keeping skills as they relate to the supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student analyzes the professional development skills needed to be an effective leader in agribusiness. The student is expected to:

(A) describe the importance of positive self-concept, social skills, and maintaining a professional image;

(B) analyze various leadership styles;

(C) prepare a professional resume, letters of interest, employment applications, and follow-up communications related to the hiring process; and

(D) explain the interpersonal skills needed to work cooperatively with others.

(5) The student evaluates employer and employee responsibilities for occupations in agriculture, food, and natural resources. The student is expected to:

(A) identify and discuss work-related and agribusiness-related ethics;

(B) identify and practice job interview skills; and

(C) outline complaint and appeal processes in the workplace.

(6) The student communicates effectively through various mediums with groups and individuals. The student is expected to:

(A) describe elements of effective communication such as accuracy, relevance, rhetoric, and organization in informal, group discussions; formal presentations; and business-related, technical communication;

(B) describe how the style and content of spoken language varies in different contexts and can influence the listener's understanding;

(C) evaluate elements of oral presentations such as delivery, vocabulary, length, and purpose;

(D) modify presentations based on audience;

(E) identify elements of appropriate professional communications in agribusiness such as correct usage of grammar and punctuation;

(F) explain the importance of communicating factual and unbiased data and information obtained from reliable sources;

(G) identify and demonstrate effective nonverbal communication skills and listening strategies; and

(H) analyze and discuss the importance of relationships and organization for effective communication within groups.

(7) The student understands the dynamics of group collaboration. The student is expected to:

(A) explain the significance of personal and group goals;

(B) apply various leadership traits to solve problems when leading a group;

(C) discuss the importance of time management and teamwork;

(D) outline the steps in the decision-making and problem-solving processes; and

(E) demonstrate an understanding of parliamentary procedures by conducting or actively participating in a meeting.

(8) The student applies principles of design in visual media as they relate to agriculture. The student is expected to:

(A) explain the purpose of visual media;

(B) identify principles of design for visual media;

(C) create designs such as web design or print design for a targeted purpose in agribusiness; and

(D) interpret, evaluate, and justify artistic decisions in visual media related to agribusiness.

(9) The student demonstrates journalistic writing in agriculture. The student is expected to:

(A) differentiate between news, feature, and opinion writing;

(B) identify different forms of journalistic writing such as feature story, press release, and editorials; and

(C) create different forms of journalistic writing for a topic in agribusiness using the drafting process, including layout, selection, revisions, and editing.

(10) The student identifies new media being used in agriculture. The student is expected to:

(A) identify effective use of emerging technology in agricultural communications;

(B) propose a media campaign for an agricultural product or business;

(C) distinguish between appropriate and inappropriate uses of media; and

(D) identify key concepts related to digital citizenship and demonstrate appropriate use of technology for the workplace.

(11) The student examines media laws and ethics related to agricultural communications. The student is expected to:

(A) define free speech, free press, defamation, and libel within communications;

(B) identify and explain media laws applicable to various agricultural communications;

(C) identify and discuss ethical considerations related to media; and

(D) evaluate and practice safe, legal, and responsible use of communication technologies.

(12) The student examines crisis management and risk communication in agricultural communications. The student is expected to:

(A) differentiate between crisis and risk communication;

(B) create an outline for a crisis communication plan in agriculture; and

(C) analyze communication techniques, relevant communication networks, and organization communication strategies before, during, and after a crisis.

§127.46. Agribusiness Management and Marketing (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Agribusiness Management and Marketing is designed to provide a foundation to agribusiness management and the free enterprise system. Instruction includes the use of economic principles such as supply and demand, budgeting, record keeping, finance, risk management, business law, marketing, and careers in agribusiness. To prepare for careers in agribusiness systems, students must attain academic skills and knowledge, acquire technical knowledge and skills related to agribusiness marketing and management and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of agribusiness systems science and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student recognizes and explains roles within organizations, inter-organizational systems, and the larger environment. The student is expected to:

(A) identify how organizational systems affect performance and the quality of products and services related to agriculture, food, and natural resources;

(B) research and describe the domestic and global context of agricultural industries and careers;

(C) describe the nature and types of agribusiness organizations; and

(D) identify the sectors of agribusiness such as production, processing, and distribution.

(5) The student examines critical aspects of career opportunities in one or more agriculture, food, and natural resources careers. The student is expected to:

(A) research job descriptions for one or more careers in agriculture, food, and natural resources and analyze labor market trends for the selected career(s); and

(B) identify educational and credentialing requirements for one or more careers in agriculture, food, and natural resources.

(6) The student defines and examines agribusiness management and marketing and its importance to agriculture and the economy. The student is expected to:

(A) describe different roles and functions of management and leadership in agribusiness;

(B) analyze the impact of management and marketing on the production, processing, and distribution of agricultural products;

(C) identify key economic principles of free enterprise;

(D) explain the impact of key economic principles in agribusiness;

(E) analyze the economic opportunities of agribusiness in a selected market or region; and

(F) identify how agribusiness management and marketing impact consumer and market trends.

(7) The student explains the importance of maintaining records and budgeting in agribusiness. The student is expected to:

(A) maintain and analyze agribusiness records such as payroll, employee benefits, inventories, financial statements, and balance sheets to make informed business decisions;

(B) research and identify loan and financing opportunities in agribusiness;

(C) compare methods of capital resource acquisition as it pertains to agriculture; and

(D) apply a cost-benefit analysis to a budget for an agricultural business.

(8) The student describes issues related to government policy and seeks opportunities to eliminate barriers for all stakeholders. The student is expected to:

(A) analyze methods of decision making;

(B) identify and examine the effects of government policies and regulations in making management decisions;

(C) describe the role of human resources in ensuring equality in the workplace;

(D) identify employee rights and laws pertaining to the workplace; and

(E) identify the rights and responsibilities of land and property ownership such as uses, taxes, wills, and liabilities.

(9) The student describes the marketing of agricultural products. The student is expected to:

(A) describe the purpose and importance of marketing agricultural products;

(B) develop a marketing plan for an agricultural business or product;

(C) compare various agribusiness markets and influence factors;

(D) identify methods used in agriculture for managing risk; and

(E) identify and analyze trends in agricultural commodity markets.

(10) The student understands the efficiency aspects of agribusiness management. The student is expected to:

(A) develop agricultural management and financial documents using management software or information technology;

(B) identify components of and develop an agribusiness entrepreneurial plan;

(C) identify components of and develop an agribusiness financial management plan; and

(D) create and present an agriculture business proposal.

§127.47. Agricultural Leadership, Research, and Communications (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: one credit from the courses in the Agriculture, Food, and Natural Resources Career Cluster. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution,

financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Agricultural Leadership, Research, and Communications focuses on challenging students to use higher level thinking skills, develop leadership abilities, and develop and communicate agricultural positions effectively with all stakeholders. To prepare for careers in agriculture, food, and natural resources, students must attain academic knowledge and skills, acquire technical knowledge and skills related to the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and applying technologies in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of agriculture and develop a plan for obtaining the education, training, and certifications required for the chosen occupation;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student researches the qualities and characteristics of effective leaders within the agricultural industry. The student is expected to:

(A) identify past agricultural leaders, explain contributions made by these leaders, and define the impact of their contributions on the agricultural industry;

(B) compare characteristics of effective leaders and explain how these traits enabled them to enact meaningful change; and

(C) analyze and present the leadership skills of a leader in the field of agriculture.

(5) The student describes organizational leadership structures at the local, state, and national levels. The student is expected to:

(A) identify agricultural or governmental leadership positions at the local, state, and national levels;

(B) explain how individuals in leadership positions and their decisions impact the agricultural industry;

(C) explain the processes by which laws, regulations, and policies are developed at the local, state, and national levels; and

(D) evaluate a recent law affecting agriculture, food, and natural resources and analyze the impact of that law on local agriculture.

(6) The student develops skills needed to participate effectively in an organizational meeting. The student is expected to:

(A) describe parliamentary laws, motions, and other procedures;

(B) apply parliamentary procedures to conduct organizational meetings;

(C) debate and discuss issues in a clear, concise, and professional manner;

(D) serve as presiding officer over an actual or mock organizational meeting; and

(E) analyze an organizational meeting such as a chapter, a district, an area, or a state meeting or a local board meeting and make recommendations to increase the meeting's overall efficiency and effectiveness.

(7) The student demonstrates an agriculture-related technical skill to stakeholders. The student is expected to:

(A) examine the components of an effective skills demonstration and create a list of essential characteristics;

(B) identify an agricultural skill, develop detailed instructions for performing that skill, and demonstrate the skill with proficiency;

(C) analyze the performance of a pre-identified skill and make recommendations to increase the performance for overall efficiency and effectiveness; and

(D) explain the relevance of real-world applications for the demonstration process.

(8) The student asks questions, identifies problems, and conducts investigations to answer questions in agriculture. The student is expected to:

(A) explain the importance of using scientific processes;

(B) ask questions and define problems based on observations or data;

(C) collect, organize, and analyze quantitative and qualitative data; and

(D) present findings and conclusions based on research performed using scientific processes.

(9) The student examines the use of logic in debate and analysis of current issues impacting the agricultural community. The student is expected to:

(A) identify the rules and responsibilities of the affirmative and negative positions in a debate;

(B) construct logical affirmative and negative cases in a debate using a variety of approaches; and

(C) present an argument free of logical fallacies on a current agricultural issue.

(10) The student examines an agricultural topic to develop an advocacy communication plan. The student is expected to:

(A) identify and research controversial areas of agriculture;

(B) identify and analyze all sides of a controversial agricultural issue;

(C) develop an advocacy communication plan that addresses both supporting and opposing arguments; and

(D) present the advocacy communication plan to an audience.

(11) The student presents and communicates agricultural information using various media. The student is expected to:

(A) identify historical and current media outlets;

(B) research and write agricultural articles for publication in print media outlets;

(C) develop and record scripts for radio broadcasts or podcast productions to effectively communicate agricultural information using technology;

(D) develop scripts for video broadcasts and communicate agricultural information effectively using a video broadcast;

(E) examine and critique various media platforms; and

(F) communicate agricultural information in a responsible, professional manner via media.

(12) The student communicates agricultural information by means of presentations to groups of various sizes. The student is expected to:

(A) select appropriate tone, language, and content for an intended audience;

(B) plan, develop, and deliver effective presentations; and

(C) critique agricultural presentations given by self or others for structure, transitions, evidence, and details.

(13) The student evaluates and critiques agricultural informational resources. The student is expected to:

(A) identify processes used in the evaluation of a variety of agricultural resources;

(B) evaluate agricultural resources for credibility, bias, and accuracy;

(C) evaluate and compare agricultural resources and make professional decisions using reliable research resources; and

(D) explain and defend decisions made in the evaluation of agricultural resources.

(14) The student understands the importance of agricultural education. The student is expected to:

(A) identify and examine historical and present-day agricultural education;

(B) identify and research individuals, governmental agencies, and advocacy groups that are responsible for agricultural information dissemination and education; and

(C) explain the importance of agricultural education.

§127.48. Equine Science (One-Half Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one-half credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) In Equine Science, students acquire knowledge and skills related to the equine industry. Equine Science may address topics related to horses, donkeys, and mules. To prepare for careers in the field of animal science, students must enhance academic knowledge and skills, acquire knowledge and skills related to equine systems, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the field of equine science;

(B) identify and demonstrate interpersonal, problem-solving, and critical-thinking skills used in equine science;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills as they relate to the supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student analyzes the history, domestication, and selection of equine. The student is expected to:

(A) research and describe the history and evolution of equine;

(B) describe the impacts of equine industries such as racing, rodeos, equestrian therapy, and the global food market; and

(C) evaluate and select equine breeds based on purpose and conformation.

(5) The student explains the anatomy and physiology of equine. The student is expected to:

(A) explain the function of the skeletal, muscular, respiratory, reproductive, digestive, and circulatory systems of equine;

(B) identify and interpret ranges for healthy equine vital signs; and

(C) compare normal and abnormal behavior of equine such as emotional and physical.

(6) The student determines the nutritional requirements of equine. The student is expected to:

(A) compare the equine digestive system to the digestive systems of other species;

(B) identify and describe sources of nutrients and classes of feed for equine;

(C) identify and research vitamins, minerals, and feed additives for equine;

(D) formulate feed rations based on the nutritional requirements of equine; and

(E) identify and discuss equine feeding practices, grazing practices, and feed quality issues.

(7) The student understands how equine are affected by diseases and pests. The student is expected to:

(A) identify and describe how bacteria, fungi, viruses, genetics, and nutrition affect equine health;

(B) identify signs, symptoms, and prevention of equine diseases;

(C) identify parasites of equine and explain the signs, symptoms, treatment, and prevention of equine parasites; and

(D) discuss methods of administering equine medications and calculating dosage.

(8) The student analyzes the management of equine. The student is expected to:

(A) identify tools and equipment for grooming, riding, and training equine and select the appropriate tools or equipment for such tasks and purposes;

(B) identify tools and equipment for safe handling and restraining of equine and select the appropriate tools or equipment for such tasks and purposes;

(C) identify types and essential features of equine facilities such as housing, performance, veterinary, and reproduction facilities;

(D) explain the procedures for breeding equine and caring for foals in accordance with industry standards;

(E) explain and demonstrate methods of identifying ownership of equine, including branding and tattooing;

(F) discuss effective equine management strategies such as financial planning, complying with governmental regulations, and interpreting performance data; and

(G) explain methods of maintaining equine health and soundness such as hoof care and dental health.

(9) The student discusses issues affecting the equine industry. The student is expected to:

(A) describe biotechnology issues related to the equine industry;

(B) research and explain animal welfare policy pertaining to equine industries such as racing, rodeos, equestrian therapy, the global food market, and pharmaceutical research; and

(C) research and explain governmental regulations, environmental regulations, or current events that affect the equine industry.

§127.49. Livestock and Poultry Production (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: a minimum of two credits with at least one course in a Level 2 or higher course from the Agriculture, Food, and Natural Resources Career Cluster. Recommended prerequi-

site: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) In Livestock and Poultry Production, students acquire knowledge and skills related to the livestock and poultry production industry. Livestock and Poultry Production may address topics related to beef cattle, dairy cattle, swine, sheep, goats, and poultry. To prepare for careers in the field of animal science, students must attain academic knowledge and skills, acquire knowledge and skills related to livestock and poultry systems and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the field of livestock and poultry production;

(B) identify and demonstrate interpersonal, problem-solving, and critical-thinking skills used in livestock and poultry production;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills as they relate to the supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student analyzes the history, domestication, and selection of livestock and poultry. The student is expected to:

(A) research and describe the history, domestication, and evolution of livestock and poultry species;

(B) describe the impacts other industries such as entertainment, recreation and leisure, and exhibition of animals have on the livestock and poultry industry; and

(C) evaluate and select livestock and poultry breeds based on purpose and conformation.

(5) The student explains the anatomy and physiology of livestock and poultry species. The student is expected to:

(A) identify and explain the skeletal, muscular, respiratory, and circulatory systems of livestock and poultry;

(B) identify and interpret ranges for healthy livestock and poultry vital signs; and

(C) compare normal and abnormal behavior of livestock and poultry.

(6) The student determines nutritional requirements of livestock and poultry. The student is expected to:

(A) describe and compare the digestive systems of ruminant and non-ruminant animals;

(B) identify sources of nutrients and classes of feed for livestock and poultry;

(C) identify vitamins, minerals, and feed additives for livestock and poultry;

(D) formulate feed rations based on nutritional needs and economic factors for livestock and poultry;

(E) research and discuss feeding practices and feed quality issues for livestock and poultry;

(F) identify forage plants used for livestock grazing; and

(G) research and explain livestock and poultry grazing practices such as rotational grazing and deferred grazing.

(7) The student explains livestock and poultry genetics and reproduction. The student is expected to:

(A) describe and compare the reproductive systems of various livestock and poultry;

(B) identify and explain livestock and poultry breeding systems such as grading up, crossbreeding, linebreeding, and inbreeding;

(C) use Expected Progeny Differences (EPDs) to evaluate livestock production;

(D) research and explain current and emerging technologies in livestock and poultry reproduction such as cloning, embryo transfer, in vitro fertilization, and artificial insemination;

(E) use Punnett squares to predict phenotypes and genotypes of livestock offspring; and

(F) explain the relationship between body condition scores and reproductive efficiency for livestock and poultry.

(8) The student understands how livestock and poultry are affected by pests and diseases. The student is expected to:

(A) identify and describe how bacteria, fungi, viruses, genetics, and nutrition affect livestock and poultry health;

(B) identify signs, symptoms, and prevention of livestock and poultry diseases;

(C) identify parasites and explain the signs, symptoms, treatment, and prevention of livestock and poultry parasites; and

(D) calculate dosage and identify administration methods of livestock and poultry medications.

(9) The student analyzes the management skills needed for livestock and poultry production. The student is expected to:

(A) identify tools and equipment for safe handling and restraining of livestock and poultry and select the appropriate tools or equipment for such tasks and purposes;

(B) identify types and essential features of facilities for livestock and poultry such as housing, veterinary, and reproduction facilities;

(C) evaluate and describe industry practices such as dehorning, castrating, docking, and vaccinating and sire, dam, and newborn care to maximize the efficiency of livestock and poultry;

(D) explain and demonstrate methods of identifying ownership of livestock and poultry such as branding, ear tagging, ear notching, wing bands, and tattooing; and

(E) explain the use of technology such as aircraft, robotics, and smart irrigation in modern livestock and poultry production.

(10) The student examines the interrelationship of the factors impacting livestock and poultry production operations. The student is expected to:

(A) research and explain livestock and poultry biosecurity and waste management practices;

(B) create an effective financial management plan for a livestock and poultry production operation;

(C) analyze and discuss environmental regulations, governmental regulations, and animal welfare policies related to livestock and poultry production;

(D) analyze the United States Department of Agriculture (USDA) standards and guidelines for organic livestock and poultry production;

(E) analyze and describe the interrelationship between grain markets and the livestock and poultry industry;

(F) assess the impact of the United States livestock and poultry industry on world commodity markets;

(G) use charts, tables, data, or graphs to evaluate the efficiency of livestock and poultry production; and

(H) develop and present a livestock or poultry operation plan that includes health, reproduction, nutrition, and management practices necessary for maximum efficiency.

§127.50. Small Animal Management (One-Half Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one-half credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) In Small Animal Management, students acquire knowledge and skills related to the small animal management industry. Small Animal Management may address topics related to small animals such as dogs and cats, rabbits, pocket pets, amphibians, reptiles, and birds. To prepare for careers in the field of animal science, students must enhance academic knowledge and skills, acquire knowledge and skills related to small animal systems, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the field of small animal management;

(B) identify and demonstrate interpersonal, problem solving, and critical thinking skills used in small animal management;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills as they relate to the supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student analyzes the history, domestication, and importance of small animal ownership. The student is expected to:

(A) research and explain the history, domestication, and purpose of small animals;

(B) identify and discuss the influence small animals have on society;

(C) describe the economic impact of the small animal industry;

(D) describe the responsibilities and benefits of small animal ownership;

(E) explain services small animals provide to society such as medical, support, research, and working; and

(F) research and discuss the environmental and governmental regulations related to small animal ownership.

(5) The student understands the hazards associated with working in the small animal industry. The student is expected to:

(A) explain and demonstrate safe practices, including the proper use of personal protective equipment (PPE), when working with small animals;

(B) identify zoonotic diseases that can be transmitted by small animals;

(C) describe sanitation methods used to prevent the spread of disease in small animals; and

(D) locate, interpret, and implement safety data sheets (SDS) for handling chemicals.

(6) The student evaluates current topics in small animal rights and animal welfare. The student is expected to:

(A) analyze current issues in animal rights and animal welfare;

(B) research and report important persons, organizations, and groups involved in the animal rights movement; and

(C) create and discuss a historical timeline of major legislation related to animal welfare.

(7) The student explains anatomy and physiology of small animals. The student is expected to:

(A) identify and explain the skeletal, muscular, respiratory, reproductive, digestive, and circulatory systems for each species studied;

(B) identify and interpret ranges for healthy small animal vital signs; and

(C) compare normal and abnormal behavior of small animals.

(8) The student analyzes the care and management skills for a variety of small animals. The student is expected to:

(A) identify and discuss the impact physical characteristics have on the management practices for each species studied;

(B) identify and compare the breeds and types of each species studied;

(C) discuss the ownership identification methods, habitat, housing, and equipment needs for each species studied;

(D) identify nutritional requirements for each species studied;

(E) explain health maintenance for each species studied, including prevention and control of diseases and parasites;

(F) describe and practice methods of handling for each species studied;

(G) discuss basic grooming procedures for each species studied; and

(H) identify copulation, gestation, parturition, and weaning practices for each species studied.

(9) The student examines the interrelationship of the factors impacting small animal ownership. The student is expected to:

(A) develop and present a small animal ownership plan that includes health, reproduction, nutrition, and management practices; and

(B) research and create a financial plan for small animal operation or ownership.

§127.51. Veterinary Science (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Equine Science, Small Animal Management, or Livestock Production. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Veterinary Science covers topics relating to veterinary practices, including practices for large and small animal species. To

prepare for careers in the field of animal science, students must attain academic knowledge and skills, acquire technical knowledge and skills related to animal systems and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer knowledge and skills and technologies in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career, education, and entrepreneurship opportunities for a chosen occupation in the field of veterinary science and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills as they relate to the supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands safety and health practices associated with working in veterinary medicine. The student is expected to:

(A) explain the importance of safe practices such as handling, restraint, and proper use of tools and equipment when working with animals;

(B) identify and discuss transmission and prevention of zoonotic diseases in large and small animal species;

(C) describe sanitation methods to prevent the spread of pathogens and maintain asepsis in sterile environments;

(D) locate, interpret, and implement safety data sheets (SDS) for handling chemicals;

(E) demonstrate and explain safe usage of clinical tools and equipment; and

(F) perform proper disposal of sharps and biohazards.

(5) The student understands current topics, professional ethics, and laws that relate to veterinary medicine. The student is expected to:

(A) research and discuss historical events, trends, and issues that have impacted veterinary medicine;

(B) analyze topics related to veterinary medical ethics, including animal rights and animal welfare; and

(C) explain policies and procedures in veterinary medicine that reflect local, state, and federal laws.

(6) The student evaluates effective management approaches and marketing strategies to determine their importance to the success of veterinary practices such as clinics and hospitals. The student is expected to:

(A) describe how the human-animal bond impacts veterinary practices when working with clients and their animals;

(B) identify and demonstrate skills needed to communicate effectively with clients and veterinary professionals;

(C) identify marketing strategies and explain how marketing affects the success of a veterinary practice; and

(D) research and discuss how electronic technology such as computer programs, medical records, hospital-to-hospital communication, and tablets is used in a veterinary practice.

(7) The student communicates the importance of medical terminology, evaluates veterinary terms to discover their meanings, and demonstrates the ability to use terms correctly. The student is expected to:

(A) analyze Greek and Latin prefixes, suffixes, and roots to determine the meaning of veterinary terms;

(B) identify, pronounce, and spell veterinary terms appropriately; and

(C) use directional anatomy terms appropriately for large and small animal species.

(8) The student understands proper animal handling as it relates to characteristics and behavior. The student is expected to:

(A) identify animal breeds according to characteristics;

(B) identify and compare normal and abnormal behavior within and among various animal species; and

(C) identify and discuss correct handling and restraint protocols for large and small animal species such as muzzling, lateral recumbency, sternal recumbency, jugular venipuncture, and haltering.

(9) The student explains anatomy and physiology of animals. The student is expected to:

(A) identify the parts and functions of the skeletal, muscular, respiratory, circulatory, digestive, endocrine, and nervous systems for large and small animal species; and

(B) describe the interrelationships among animal body systems.

(10) The student determines the importance of animal nutrition in maintaining a healthy animal. The student is expected to:

(A) identify sources of nutrients and classes of feeds for large and small animal species;

(B) identify feed additives for large and small animal species and describe how additives affect the food supply;

(C) analyze dietary needs and feed-quality issues for large and small animal species and their effect on feeding practices; and

(D) research and compare the nutritional value of feeds such as prescription, commercial, homemade, fad, and raw diets for large and small animal species.

(11) The student evaluates an animal's health during a clinical examination. The student is expected to:

(A) describe the characteristics and signs of a healthy and an unhealthy animal;

(B) identify ranges for healthy vital signs for large and small animal species such as temperature, pulse, respiration, hydration, and capillary refill time;

(C) demonstrate the proper procedures for obtaining vital signs for large and small animal species and interpret vital sign measurements to determine the health of the animal;

(D) describe effects of age, stress, and environmental factors on vital signs of animals;

(E) explain procedures for physical examinations for large and small animal species;

(F) explain the anatomical regional approach to assess an animal's health;

(G) apply mathematical skills to calculate weight and linear body measurement for large and small animal species and to convert between measurement systems; and

(H) analyze tables, charts, and graphs to interpret large and small animal patient and clinical data.

(12) The student analyzes how diseases and parasites affect animal health. The student is expected to:

(A) describe the process of immunity and disease transmission for large and small animal species;

(B) identify and describe pathogens for large and small animal species and the diseases they cause;

(C) describe the effects that diseases have on various body systems for large and small animal species;

(D) identify parasites for large and small animal species using common and scientific names;

(E) describe life cycles of parasites found in large and small animal species;

(F) explain how parasites found in large and small animal species are transmitted and explain the effects on the host;

(G) describe parasitic diagnostic procedures for large and small animal species; and

(H) describe treatment protocols for parasites found in large and small animal species.

(13) The student examines various aspects of veterinary laboratory procedures. The student is expected to:

(A) explain the procedures used in collecting, handling, and preparing fecal, blood, and urine specimens for large and small animal species;

(B) explain veterinary procedures used in examining fecal, blood, and urine specimens; and

(C) analyze and compare normal and abnormal results obtained in veterinary laboratory procedures.

(14) The student analyzes technical veterinary procedures and skills. The student is expected to:

(A) explain the care, maintenance, and use of equipment and instruments found in veterinary practices;

(B) interpret and prepare a veterinary medical record, adhering to client and patient confidentiality;

(C) explain and demonstrate routine animal care skills such as administering medications, nail trimming, bathing, dipping, grooming, ear cleaning, expressing anal sacs, dental care, placing a tail tie, and ownership identification methods;

(D) explain and demonstrate therapeutic care for large and small animal species such as patient observation, maintaining and administering fluids, applying and removing bandages, removing sutures, caring for open wounds, and providing hydrotherapy physical therapy;

(E) describe emergency protocols and first aid procedures for large and small animal species, including cardiopulmonary resuscitation, control of bleeding, and signs of shock; and

(F) research and compare veterinary care of specialty patients, including newborns, orphans, geriatric animals, recumbent animals, and animals with disabilities.

(15) The student identifies and discusses surgical-assisting procedures and skills. The student is expected to:

(A) explain the veterinary protocol for pre-surgical and post-surgical care of a patient;

(B) identify tools and equipment used in veterinary surgical procedures;

(C) describe methods used in the preparation, sterilization, and opening of surgery packs; and

(D) describe veterinary surgical procedures such as spaying, castration, dehorning, docking, dental prophylaxis, and tooth extraction.

(16) The student identifies imaging equipment and understands how to safely operate and maintain equipment. The student is expected to:

(A) research and explain the parts and function of imaging equipment such as an ultrasonograph, endoscope, electrocardiograph, and radiograph;

(B) explain safety, maintenance, and operation procedures of imaging equipment;

(C) demonstrate patient restraint and positioning methods used for imaging purposes of large and small animal species; and

(D) differentiate between the images from various imaging equipment.

(17) The student identifies veterinary pharmacology procedures and skills. The student is expected to:

(A) identify veterinary medications according to their classification, schedule, form, routes of administration, and methods of administration;

(B) explain handling, storage, distribution, protocols, and laws for veterinary medications, including controlled substances;

(C) calculate dosage for large and small animal species using factors such as concentration of drug, weight of animal, and prescribed dosage;

(D) prepare a veterinary prescription label with identifiers that are required by the United States Food and Drug Administration;

(E) identify and explain the equipment and instruments used to safely administer medications for large and small animal species; and

(F) research and present emerging trends in veterinary pharmacology such as internet pharmacies, herbal supplements, organic labeling, and extra-label and off-label use of medications.

§127.52. Advanced Animal Science (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Biology and Chemistry or Integrated Physics and Chemistry (IPC); Algebra I and Geometry; and either Small Animal Management, Equine Science, or Livestock Production. Recommended prerequisite: Veterinary Science. Students must meet the 40% laboratory and fieldwork requirement. This course satisfies a high school science graduation requirement. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Advanced Animal Science examines the interrelatedness of human, scientific, and technological dimensions of animal production, including canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorpha production. Instruction is designed to allow for the application of scientific and technological aspects of animal science through field and laboratory experiences. To prepare for careers in the field of animal science, students must attain academic knowledge and skills, acquire knowledge and skills related to animal systems, and develop knowledge and skills regarding career opportunities, entry requirements, and industry standards. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills in a variety of settings.

(4) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not scientifically testable.

(5) Scientific hypotheses and theories. Students are expected to know that:

(A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and

(B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.

(6) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

(A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.

(B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.

(7) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(8) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.

(9) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(10) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of animal science and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:

(A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;

(B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;

(C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;

(D) use appropriate tools such as dissection equipment, standard laboratory glassware, microscopes, various prepared slides, measuring devices, micropipettors, hand lenses, thermometers, hot plates, laboratory notebook, timing devices, cameras, Petri dishes, laboratory incubators, models, diagrams, and samples of biological specimens, syringes, needles, scalpels, microscopes slides, cover slips, artificial insemination equipment, and drench gun;

(E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;

(F) organize quantitative and qualitative data using calculators, computers, software, laboratory notebook, recordkeeping system, and reliable sources;

(G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and

(H) distinguish between scientific hypotheses, theories, and laws.

(3) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:

(A) identify advantages and limitations of models such as their size, scale, properties, and materials;

(B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;

(C) use mathematical calculations to assess quantitative relationships in data; and

(D) evaluate experimental and engineering designs.

(4) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:

(A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;

(B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and

(C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.

(5) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:

(A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing so as to encourage critical thinking by the student;

(B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and

(C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.

(6) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(7) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(8) The student analyzes the history, domestication, and evaluation of animals, including canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs. The student is expected to:

(A) research and describe the history, including evolution, domestication, and introduction of species to countries, of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(B) analyze and describe how changes in the global food market impact the animal production industry; and

(C) evaluate breeds of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorph based on purpose and conformation.

(9) The student defines how an organism grows and how specialized cells, tissues, and organs develop. The student is expected to:

(A) compare cells to show specialization of structure and function;

(B) explain cell division, including mitosis and meiosis;

(C) explain cell differentiation in the development of tissues and organs; and

(D) identify and explain the biological levels of organization in animals.

(10) The student examines and compares anatomy and physiology in animals. The student is expected to:

(A) compare the external anatomy of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(B) identify the anatomical structures and physiological functions of the skeletal, muscular, circulatory, genitourinary, respiratory, nervous, immune, and endocrine systems of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs; and

(C) investigate and describe the interrelationship among animal body systems.

(11) The student understands the anatomical structures and physiological functions of the digestive system to determine nutritional requirements of ruminant and non-ruminant animals. The student is expected to:

(A) describe the structures and functions of the digestive systems of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(B) identify and describe sources of nutrients and classes of feeds for canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(C) identify and describe the feed additives and supplements used to meet the nutritional requirements of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(D) formulate rations based on different nutritional requirements, including age, gestation, lactation, sex, and purpose, for canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(E) analyze feeding practices in relation to nutritional requirements, including age, gestation, lactation, sex, and purpose, for canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(F) analyze feed quality issues and determine their effect on the health of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(G) research and compare the nutritional value of feeds for all species discussed;

(H) identify forage plants used for livestock grazing and analyze the protein levels of each; and

(I) research grazing practices such as rotational grazing and deferred grazing and explain the advantages and disadvantages of each using the scientific and engineering design process.

(12) The student understands the principles of molecular genetics and heredity. The student is expected to:

(A) explain Mendel's laws of inheritance and predict genotypes and phenotypes of offspring using a Punnett square;

(B) use a Punnett square and assign alleles to justify genotype and phenotype predictions;

(C) identify the parts of the nucleotide and differentiate between the nucleotides found in deoxyribonucleic acid (DNA) and ribonucleic acid (RNA); and

(D) explain the functions of DNA and RNA.

(13) The student applies the principles of reproduction and breeding to animal improvement. The student is expected to:

(A) describe and compare reproductive anatomy of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(B) analyze and compare reproductive cycles and phases of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(C) correlate the reproductive cycles and phases to animal behavior;

(D) research breeding systems, including grading up, crossbreeding, linebreeding, and inbreeding, and explain the advantages and disadvantages of each using the scientific and engineering design process; and

(E) research breeding methods, including embryo transfer, artificial insemination, and natural mating, and explain the advantages and disadvantages of each using the scientific and engineering design process.

(14) The student analyzes how diseases and parasites affect animal health. The student is expected to:

(A) examine how factors such as geographic location, age, genetic composition, and inherited diseases influence the health of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(B) describe the process of immunity and disease transmission of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(C) identify and describe pathogens and the diseases they cause in canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(D) describe the effects that diseases have on various body systems of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(E) research and explain the methods of prevention and control for diseases of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(F) identify parasites of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs using common and scientific names;

(G) describe the life cycles of various parasites and relate them to animal health issues;

(H) explain how parasites are transmitted and the effect they have on canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs;

(I) conduct or simulate parasite diagnostic tests; and

(J) explain the methods of prevention, control, and treatment of parasites of canine, feline, bovine, equine, caprine, porcine, ovine, poultry, and lagomorphs.

(15) The student discusses livestock market readiness and harvesting methods. The student is expected to:

(A) explain the stages of animal growth and development and how they relate to market readiness;

(B) evaluate market class and grades of livestock;

(C) compare harvesting methods for various species using the scientific and engineering design process;

(D) research and describe federal and state meat inspection standards such as safety, hygiene, and quality control standards;

(E) identify wholesale and retail cuts of meat and correlate to major muscle groups; and

(F) research animal by-products and explain their impact on society.

(16) The student explores methods of marketing animals and animal products. The student is expected to:

(A) compare various methods of animal marketing such as auction, contract sales, private treaty, internet sales, value-based, and exhibition of various animals;

(B) describe methods of marketing animal products such as farmers market, direct sales, wholesale, and retail;

(C) research and evaluate the effectiveness of various strategies and campaigns to market animal products based on consumption patterns and consumer preferences; and

(D) research and evaluate the effectiveness of various labeling options to market animal products such as organic, farm-raised, hormone-free, cage-free, grass-fed, antibiotic-free, and non-GMO labels based on consumption patterns and consumer preferences.

(17) The student demonstrates an understanding of policies and current issues in animal science. The student is expected to:

(A) investigate and discuss the use of biotechnology and biosecurity in the animal science industry;

(B) identify governmental regulations and policies such as environmental and animal welfare and research the impacts on animal production; and

(C) identify and research a current issue in scientific animal agriculture and design a protocol to address the issue using the scientific and engineering design process.

§127.53. Floral Design (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. This course satisfies the fine arts graduation requirement. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Floral Design is designed to develop students' ability to identify and demonstrate the elements and principles of floral design as well as develop an understanding of the management of floral enterprises. Through the analysis of artistic floral styles and historical periods, students develop respect for the traditions of and appreciation for the contributions of diverse cultures. Students respond to and analyze floral designs, thus contributing to the development of lifelong skills of making informed judgments and evaluations. To prepare for careers in floral design, students must attain academic knowledge and skills, acquire technical knowledge and skills related to horticultural systems, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and technologies in a variety of settings.

(4) Floral Design follows the four basic fine arts strands of foundations: observation and perception; creative expression; historical and cultural relevance; and critical evaluation and response to provide broad, unifying structures for organizing the knowledge and skills students are expected to acquire. Each strand is of equal value and may be presented in any order throughout the year. Students rely on personal observations and perceptions, which are developed through increasing visual literacy and sensitivity to surroundings, communities, memories, imaginings, and life experiences as sources for thinking about, planning, and creating original floral art. Students communicate their thoughts and ideas with innovation and creativity. Through floral design, students challenge their imaginations, foster critical thinking, collaborate with others, and build reflective skills. While exercising meaningful problem-solving skills, students develop the lifelong ability to make informed judgments.

(5) Students are encouraged to participate in extended learning experiences related to floral design such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of floral design and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student identifies elements and principles of design in floral art in both historical and current contexts. The student is expected to:

(A) identify the historical trends and characteristics of floral art as they relate to current industry practices;

(B) identify design elements in floral art, including color, texture, form, line, space, pattern, size, and fragrance;

(C) identify design principles in floral art, including rhythm, balance, proportion, dominance, contrast, harmony, and unity;

(D) identify the ancillary concepts of design principles such as emphasis, focal area, repetition, transition, opposition, and variation; and

(E) compare the forms and functions of flowers and foliage, including form, mass, line, and filler.

(5) The student demonstrates elements and principles through the creation of floral designs using flowers and plants. The student is expected to:

(A) create and evaluate floral arrangements using cut flowers, including arrangements using bud vases, and round, symmetrical, and asymmetrical designs;

(B) create and evaluate floral designs using permanent botanicals such as homecoming mums;

(C) design and create corsages and boutonnieres;

(D) create floral designs for specific holidays and cultural occasions such as weddings and funerals; and

(E) create interiorscapes using the elements and principles of floral design.

(6) The student makes informed judgments about personal designs and the designs of others. The student is expected to:

(A) interpret, evaluate, and justify artistic decisions in the design of personal arrangements;

(B) evaluate and appraise floral designs;

(C) construct a physical or electronic portfolio of personal floral artwork to provide evidence of learning; and

(D) interpret and evaluate design elements and principles in floral arrangements of others.

(7) The student demonstrates contemporary designs and creativity in the floral industry by developing floral design skills. The student is expected to:

(A) identify and classify specialty floral items for a variety of occasions;

(B) create specialty designs to expand artistic expression;

(C) apply proper wiring and taping techniques to materials used in the floral industry; and

(D) demonstrate safe and proper usage of floral design tools.

(8) The student recognizes the current industry practices of floral enterprises. The student is expected to:

(A) identify and classify flowers, foliage, and plants used in floral design;

(B) use temperature, preservatives, and cutting techniques to extend the vase life of floral materials;

(C) identify and describe how tools, chemicals, and equipment are used in floral design and describe safe handling practices;

(D) analyze the needs of indoor plants such as fertilizer, light, pruning, and water based on the condition of the plant;

(E) identify common pests and diseases that affect the floral industry; and

(F) identify management techniques of pests and diseases in the floral industry, including the safe use of pesticides.

(9) The student recognizes current business management practices of floral enterprises. The student is expected to:

(A) create cost-effective floral designs;

(B) apply pricing strategies and order-processing skills to meet various budgets and needs; and

(C) describe packaging, distribution, and setup logistics in the floral industry.

(10) The student understands botany and physiology and how they relate to floral design and interiorscapes. The student is expected to:

(A) analyze the structure and functions of indoor plants used in the floral industry; and

(B) identify the structure and functions of flowers used in the floral industry.

§127.54. Horticultural Science (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: at least one credit in a course from the Agriculture, Food, and Natural Resources Career Cluster. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) In Horticultural Science, students develop an understanding of common horticultural management practices as they relate to food and ornamental plant production. To prepare for careers in horticultural industry systems, students must attain academic knowledge and skills, acquire technical knowledge and skills related to horticulture and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities in the field of plant science and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands the history and progression of the horticulture industry. The student is expected to:

(A) trace how relevant historical advancements in the horticulture industry relate to current industry practices;

(B) identify and describe different disciplines of horticulture such as arboriculture, floriculture, olericulture, pomology, viticulture, turf management, and ornamental horticulture;

(C) identify and research emerging technology in the horticulture industry;

(D) identify current trends in the horticulture industry; and

(E) compare types of horticulture industries in the different regions of Texas.

(5) The student identifies plant structures and their functions and needs. The student is expected to:

(A) classify horticultural plants by their common and scientific names;

(B) describe functional differences in plant structures, including roots, stems, flowers, leaves, and fruit;

(C) identify pollination factors affecting plants and trees such as access to pollinators, wind, and hand pollination;

(D) compare monocots and dicots;

(E) analyze environmental needs of plants, including light, water, and nutrients; and

(F) identify the components of a fertilizer label.

(6) The student develops technical knowledge and skills associated with the production of horticultural plants. The student is expected to:

(A) classify horticultural plants based on taxonomy;

(B) identify classifications of plants, including annuals, perennials, biennials, and evergreens, based on growing cycles;

(C) identify horticultural plants based on their physical characteristics;

(D) compare the reproduction of flowering and non-flowering horticultural plants;

(E) select appropriate tools and equipment for production of horticultural plants;

(F) demonstrate safe and appropriate use of tools and equipment; and

(G) identify maintenance practices for hand tools, power tools, and equipment.

(7) The student understands plant propagation techniques and growing methods. The student is expected to:

(A) identify asexual propagation methods for horticultural plants, including cuttings, grafting, budding, layering, and tissue culture;

(B) propagate horticultural plants using asexual methods such as cuttings, grafting, budding, layering, and tissue culture;

(C) manipulate the germination of seeds using various methods such as mechanical scarification, chemical scarification, and heat and cold treatments;

(D) compare various soil-based growing media; and

(E) identify soilless growing methods used in the horticulture industry.

(8) The student manages and controls common pests, diseases, and deficiencies of horticultural plants. The student is expected to:

(A) identify and manage common horticultural pests, diseases, and deficiencies;

(B) identify and manage common weeds that impact horticultural production;

(C) develop a plan for disease control using integrated pest management;

(D) apply proper sanitation methods to prevent the spread of pests;

(E) demonstrate safe and proper practices in selecting, applying, storing, and disposing of chemicals; and

(F) review and explain the parts of a pesticide label.

(9) The student understands the concepts of ornamental plants and landscape design. The student is expected to:

(A) compare landscaping methods that account for environmental variables such as water availability, soil type, light availability, and climate;

(B) identify and select plants, including bedding plants, shrubs, trees, and turf grasses, for landscapes based on United States Department of Agriculture (USDA) hardiness zones;

(C) design a landscape using design elements and principles; and

(D) compare sustainability practices such as planting native plants, water conservation, and irrigation technology used in a landscape.

(10) The student demonstrates business skills used in the horticulture industry. The student is expected to:

(A) identify opportunities for entrepreneurship in the horticulture industry;

(B) identify practices to maintain business relationships;

(C) describe and demonstrate correct procedures for handling customer sales transactions;

(D) calculate pricing to maximize profit for wholesale and retail settings;

(E) develop a plan to market horticultural products and services; and

(F) formulate a budget for a horticultural enterprise.

§127.55. Greenhouse Operation and Production (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Greenhouse Operation and Production is designed for students to develop an understanding of greenhouse production techniques and practices. To prepare for careers in horticultural and controlled environment agricultural systems, students must attain academic knowledge and skills, acquire technical knowledge and skills related to horticultural systems and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and technologies in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career development, education, and entrepreneurship opportunities in the field of greenhouse operation and production;

(B) identify and demonstrate interpersonal, problem-solving, and critical-thinking skills used in greenhouse operation and production;

(C) describe and demonstrate appropriate personal and occupational safety and health practices for the workplace;

(D) identify employers' legal responsibilities and expectations, including appropriate work habits and ethical conduct;

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy; and

(F) identify training, education, and certification requirements for occupational choices.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands the history and progress of the greenhouse industry. The student is expected to:

(A) trace the relevant historical advancements in the greenhouse industry such as developments in construction materials and use of technology and describe the impact of these advancements on current industry practices;

(B) research and identify emerging technologies in the greenhouse industry; and

(C) analyze current trends in the greenhouse industry.

(5) The student identifies and investigates different greenhouse structures, interior layout, and construction factors. The student is expected to:

(A) compare greenhouse styles and construction materials;

(B) compare and select greenhouse coverings;

(C) analyze the costs associated with greenhouse construction;

(D) identify factors to consider when constructing a greenhouse such as greenhouse orientation and access to electricity, roads, drainage, water, and plumbing;

(E) identify and describe additional growing structures such as cold frames and hotbeds;

(F) design a layout of essential areas of a greenhouse such as receiving, storage, seedling propagation, crop production, harvest, sanitation, packaging, labeling, and distribution areas;

(G) describe the adaptation of greenhouse concepts to plant production in controlled environments such as indoor vertical farms and freight containers;

(H) differentiate between passive and controlled greenhouses; and

(I) analyze greenhouse operation regulations enacted by regulatory agencies such as the Texas Department of Agriculture, the United States Department of Agriculture, and local agencies.

(6) The student identifies and assesses environmental conditions within the greenhouse. The student is expected to:

(A) describe various environmental factors controlled in the greenhouse;

(B) determine and calculate factors used in heating and cooling a greenhouse;

(C) describe the effects of greenhouse climate conditions such as ventilation, carbon dioxide generation, and humidity on plant growth in the greenhouse;

(D) explore the importance of light characteristics on the production of greenhouse crops; and

(E) compare open and closed environmental systems in the greenhouse such as irrigation, lighting, climate control, carbon dioxide injection, and fertilization.

(7) The student identifies, operates, and maintains greenhouse environmental and mechanical controls. The student is expected to:

(A) explain how to operate and maintain heating, cooling, and ventilation systems in a greenhouse;

(B) explain how to operate and maintain electrical systems in a greenhouse;

(C) explain how to operate and maintain various water systems in a greenhouse;

(D) explain how to operate lighting systems in a greenhouse; and

(E) illustrate and describe the integration of automated control systems such as lighting, cooling, irrigation, fertigation, and carbon dioxide injection.

(8) The student identifies and classifies plants used in greenhouse production. The student is expected to:

(A) classify plants commonly used in greenhouses based on taxonomic systems;

(B) identify and compare plant anatomical structures and functions that are used in plant identification; and

(C) analyze plant classifications based on cropping schedules and market demand for greenhouse crops.

(9) The student identifies and investigates greenhouse crop production factors. The student is expected to:

(A) identify and explain the chemical and physical differences in greenhouse media components;

(B) compare greenhouse growing mixes for factors, including drainage and nutrient-holding capacity;

(C) compare different containers, benches, and production equipment used in greenhouses;

(D) evaluate different methods of watering greenhouse crops based on the type of crop, stage of development, cost-effectiveness, and weather;

(E) analyze the effect of nutrients on greenhouse plant growth;

(F) diagnose common nutrient deficiency symptoms found in greenhouse crops; and

(G) develop fertilization plans that address greenhouse crop needs and environmental impacts.

(10) The student propagates greenhouse crops. The student is expected to:

(A) analyze different methods of propagating greenhouse crops using sexual and asexual propagation methods;

(B) propagate greenhouse crops using sexual and asexual methods;

(C) investigate and explain physiological conditions that affect plant propagation; and

(D) analyze the effects of plant growth regulators on plant growth and development.

(11) The student investigates pest and disease identification and control methods in the greenhouse environment. The student is expected to:

(A) identify and classify common diseases, insects, pathogens, and weeds in the greenhouse;

(B) identify essential components of an integrated pest management plan in controlling an insect, pathogen, or weed problem;

(C) identify appropriate greenhouse pesticide application techniques and equipment; and

(D) analyze pesticide labeling and safety data sheets.

(12) The student performs greenhouse management business procedures. The student is expected to:

(A) identify and develop effective marketing strategies to market greenhouse crops to increase profits;

(B) develop appropriate methods for preparing greenhouse crops for various means of transport;

(C) analyze materials, labor, and administrative costs related to greenhouse production;

(D) analyze methods used to maintain crop quality during marketing and transport; and

(E) prepare a production schedule for a greenhouse crop from establishment to market within a specific timeline.

§127.56. Viticulture (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: at least one credit in a course from the Agriculture, Food, and Natural Resources Career Cluster. Recommended prerequisite: Principles of Agriculture, Food and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Viticulture is a course designed to provide students with the academic and technical knowledge and skills that are required to pursue a career related to vineyard operations, grape cultivation, and related industries that contribute to the Texas economy. Students in Viticulture develop an understanding of grape production techniques and practices while emphasizing environmental science related to production decisions. To prepare for success, students need opportunities to learn, reinforce, experience, apply, and transfer their knowledge and skills in a variety of settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of viticulture and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands the history and progression of the viticulture industry. The student is expected to:

(A) trace how relevant historical advancements in viticulture relate to current industry practices;

(B) research and identify emerging technology in the viticulture industry; and

(C) identify current trends in the viticulture industry.

(5) The student explains the production cycle and basic physiology of grapevines. The student is expected to:

(A) describe asexual propagation techniques used in the production of domesticated grapes;

(B) identify the major vegetative and reproductive structures of grapevines;

(C) explain the role of rootstock in grapevine production;

(D) describe the annual vegetative growth and reproductive cycle of grapevines;

(E) explain how environmental conditions influence grapevine vegetative and reproductive growth; and

(F) describe the use of training systems in vineyard production.

(6) The student analyzes vineyard design and development. The student is expected to:

(A) identify the site characteristics required for successful vineyard production;

(B) evaluate the soil and climatic characteristics of a potential vineyard site to determine if it is suitable for vineyard production;

(C) identify and research successful vineyards in other parts of the world with soil and climatic characteristics similar to local conditions; and

(D) develop a vineyard design and installation plan.

(7) The student evaluates technology and practices used for vineyard frost protection. The student is expected to:

(A) describe the environmental conditions that lead to plant cold injury;

(B) identify frost damage in grapevines and effective frost damage mitigation techniques;

(C) differentiate advection and radiation frost events;

(D) evaluate the effectiveness of passive frost protection techniques employed in vineyards;

(E) evaluate the effectiveness of active frost protection techniques employed in vineyards; and

(F) analyze the cost effectiveness of frost protection systems.

(8) The student demonstrates vineyard management techniques. The student is expected to:

(A) identify and demonstrate safe and appropriate usage of vineyard tools;

(B) describe and demonstrate dormant pruning of grapevines to minimize crop loss due to frost;

(C) describe grapevine-training techniques such as spur and cane pruning; and

(D) explain the use of technology in modern vineyard production systems such as drones, robotics, and smart irrigation.

(9) The student develops an integrated pest management plan for vineyards. The student is expected to:

(A) identify common insect pests and diseases found in vineyards;

(B) identify common animal pests that are problematic in vineyards;

(C) evaluate the components of integrated pest management used in vineyards;

(D) explain cultural practices for vineyard pest control; and

(E) describe the safe and effective use of pesticides in vineyards, ensuring compliance with federal and state regulations.

(10) The student examines soil properties and soil fertility as they relate to vineyard production systems. The student is expected to:

(A) explain the concepts of soil type, soil texture, and basic soil chemistry;

(B) identify the essential nutrients required by grapevines;

(C) describe the relationship between soil properties and fertility;

(D) calculate the fertilizer needs of grapevines;

(E) develop and present a vineyard fertilization plan; and

(F) identify the practices of organic vineyards related to soil properties and fertility.

(11) The student evaluates water requirements of vineyards and associated climatic factors. The student is expected to:

(A) evaluate grapevine water requirements;

(B) compare grape varieties that thrive in local soil and weather conditions;

(C) analyze the influence of soil properties and climate on vineyard water usage;

(D) describe irrigation strategies used in vineyards;

(E) identify the water resources required for vineyards;

(F) describe methods used to determine soil moisture; and

(G) calculate the irrigation needs of vineyards based on soil and climate.

§127.57. Advanced Floral Design (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Floral Design. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) In Advanced Floral Design, students gain advanced knowledge and skills specifically needed to enter the workforce as floral designers or as freelance floral event designers, with an emphasis on specialty designs and occasion-specific designs and planning. Students are also prepared to enter postsecondary certification or degree programs in floral design or special events design. Students build on the knowledge base from Floral Design and are introduced to more advanced floral design concepts. In addition, students gain knowledge of the design elements and planning techniques used to produce unique specialty floral designs that support the goals and objectives of an occasion or event.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of floral design and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety and health practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(3) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(4) The student understands advanced floral design elements and principles. The student is expected to:

(A) describe floral materials using advanced botanical terminology;

(B) identify the symbolic meaning of flowers and plants used in floral design such as love, friendship, courage, and innocence;

(C) compare the characteristics of contemporary floral design styles such as abstract, assemblage, asymmetrical, Biedermeier, cascade/waterfall, hedgerow, parallel, synergistic, submerged, topiary, and vegetative;

(D) illustrate ideas for arrangements using contemporary floral design styles from direct observation, experience, and imagination;

(E) identify and explain various basing design techniques, including layering, terracing, pavé, clustering, and pillowing; and

(F) identify and explain advanced focal-emphasis design techniques, including grouping, banding, binding, shadowing, sequencing, framing, zoning, and parallelism.

(5) The student demonstrates advanced design techniques using fresh and permanent floral designs. The student is expected to:

(A) plan and design fresh flower and permanent botanical arrangements using various contemporary design styles such as abstract, assemblage, asymmetrical, Biedermeier, cascade/waterfall, hedgerow, parallel, synergistic, submerged, topiary, and vegetative;

(B) design and evaluate floral designs that exhibit various basing design techniques such as layering, terracing, pavé, clustering, and pillowing; and

(C) design and evaluate floral designs using advanced focal-emphasis design techniques such as grouping, banding, binding, shadowing, sequencing, framing, zoning, and parallelism.

(6) The student describes effective design planning and the processes used to create floral designs for specific occasions and events. The student is expected to:

(A) describe and apply proper planning techniques in floral design;

(B) identify and execute the steps of effective planning used to design floral arrangements for specific occasions such as weddings and funerals;

(C) analyze and discuss contingency factors when planning large-volume floral designs; and

(D) identify effective consultation practices to determine customers' expectations for design, including budget.

(7) The student applies key floral design elements and principles to enhance the experience of specific occasions and events. The student is expected to:

(A) identify floral design terminology used for specific occasions, including weddings and funerals;

(B) apply elements and principles of floral design to wedding and funeral arrangements such as bouquets, boutonnieres, corsages, sprays, and pedestal arrangements;

(C) describe current floral design trends;

(D) use and maintain floral design tools; and

(E) create examples of appropriate occasion-specific floral designs from direct observation, experience, and imagination.

(8) The student demonstrates effective planning of occasion-specific floral designs from the conceptual stage through completion. The student is expected to:

(A) conduct a floral design consultation to gather details, including occasion, budget, formality, and theme;

(B) evaluate and select floral arrangements that achieve the objectives and budget expectations of an occasion;

(C) develop a proposal that showcases floral arrangements appropriate for the selected occasion;

(D) develop a production schedule that allows sufficient time for the design, creation, installation, and disassembly of floral arrangements;

(E) develop a procurement plan to ensure necessary resources are obtained within a specified budget and timeframe; and

(F) implement a floral design plan through completion and evaluate the results of the plan.

(9) The student demonstrates business management and merchandising skills necessary for floral design and freelance floral event design professionals. The student is expected to:

(A) calculate mark-up of floral products and design services;

(B) evaluate the cost-effectiveness and profitability of pricing policies;

(C) develop and negotiate contracts for floral services;

(D) formulate a floral budget, including per-item total costs;

(E) describe and demonstrate proper customer service skills for a floral business;

(F) identify the benefits of establishing business relationships with a variety of vendors such as wedding venues, funeral homes, wholesale florists, and wire services; and

(G) analyze basic marketing principles and procedures used in the floral industry such as displays and advertisements.

(10) The student explains the significance of professional organizations to the floral design industry. The student is expected to:

(A) identify industry-related professional organizations; and

(B) describe the benefits of participating in professional floral organizations and earning industry-based certifications.

§127.58. Advanced Plant and Soil Science (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Biology; either Chemistry or Integrated Physics and Chemistry (IPC); Algebra I; Geometry; and either Horticultural Science, Greenhouse Operation and Production, or Floral Design. Recommended prerequisite: Principles of Agriculture, Food, and Natural Resources. Students must meet the 40% laboratory and fieldwork requirement. This course satisfies a high school science graduation requirement. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Agriculture, Food, and Natural Resources Career Cluster focuses on the production, processing, marketing, distribution, financing, and development of agricultural commodities and resources, including food, fiber, wood products, natural resources, horticulture, and other plant and animal products/resources.

(3) Advanced Plant and Soil Science provides a way of learning about the natural world. In this course, students learn how plant and soil science has influenced a vast body of knowledge, that there are still applications to be discovered, and that plant and soil science is the basis for many other fields of science. To prepare for careers in plant and soil science, students must attain academic knowledge and skills, acquire technical knowledge and skills related to plant and soil science and the workplace, and develop knowledge and skills regarding career opportunities, entry requirements, and industry expectations. To prepare for success, students need opportunities to learn, reinforce, apply, and transfer their knowledge and skills and technologies in a variety of settings.

(4) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not scientifically testable.

(5) Scientific hypotheses and theories. Students are expected to know that:

(A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and

(B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.

(6) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

(A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.

(B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.

(7) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(8) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.

(9) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(10) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify career and entrepreneurship opportunities for a chosen occupation in the field of plant science and develop a plan for obtaining the education, training, and certifications required;

(B) model professionalism by continuously exhibiting appropriate work habits, solving problems, taking initiative, communicating effectively, listening actively, and thinking critically;

(C) model appropriate personal and occupational safety practices and explain the importance of established safety and health protocols for the workplace;

(D) analyze and interpret the rights and responsibilities, including ethical conduct and legal responsibilities, of employers and employees; and

(E) describe and demonstrate characteristics of good citizenship in the agricultural workplace, including promoting stewardship, community leadership, civic engagement, and agricultural awareness and literacy.

(2) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:

(A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;

(B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;

(C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;

(D) use appropriate tools such as microscopes, measuring equipment, sensors, plant propagation tools, soil testing kits, and calculators;

(E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;

(F) organize quantitative and qualitative data using graphs and charts;

(G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and

(H) distinguish between scientific hypotheses, theories, and laws.

(3) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:

(A) identify advantages and limitations of models such as their size, scale, properties, and materials;

(B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;

(C) use mathematical calculations to assess quantitative relationships in data; and

(D) evaluate experimental and engineering designs.

(4) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:

(A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;

(B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and

(C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.

(5) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:

(A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and

experimental and observational testing so as to encourage critical thinking by the student;

(B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and

(C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.

(6) The student develops a supervised agricultural experience program. The student is expected to:

(A) plan, propose, conduct, document, and evaluate a supervised agricultural experience program as an experiential learning activity; and

(B) use appropriate record-keeping skills in a supervised agricultural experience program.

(7) The student develops leadership skills through participation in an agricultural youth organization. The student is expected to:

(A) participate in youth agricultural leadership opportunities;

(B) review and participate in a local program of activities; and

(C) create or update documentation of relevant agricultural experience such as community service, professional, or classroom experiences.

(8) The student understands interrelationships between plants, soil, and people in historical and current contexts. The student is expected to:

(A) research and document major historical milestones related to plant and soil science in human civilization;

(B) explain how humans have influenced plant selection and how plant selection has influenced civilization's development;

(C) analyze the effect of soil properties on settlement of civilizations and migration; and

(D) investigate and explain how plants have shaped major world economies.

(9) The student identifies how plants grow and how specialized cells, tissues, and organs develop. The student is expected to:

(A) describe the unique structure and function of organelles in plant cells;

(B) explain the growth and division of plant cells;

(C) compare cells from different parts of the plant, including roots, stems, flowers, and leaves, to show specialization of structures and functions; and

(D) illustrate the levels of cellular organization in plants.

(10) The student develops a knowledge of plant anatomy and functions. The student is expected to:

(A) describe the structure and function of plant parts, including roots, stems, leaves, flowers, fruits, and seeds;

(B) compare the anatomy of monocots and dicots;

(C) compare the various propagation methods for plants; and

(D) identify the functions of modified plant structures such as tubers, rhizomes, pseudo stems, and pitchers.

(11) The student develops an understanding of plant physiology and nutrition. The student is expected to:

(A) explain the metabolic process of photosynthesis and cellular respiration;

(B) describe the role of mineral nutrition in the soil for plant development;

(C) identify the essential nutrients in soil; and

(D) describe the role of macronutrients and micronutrients in plants.

(12) The student analyzes soil science as it relates to plant and human activity. The student is expected to:

(A) explain soil formation;

(B) investigate and document the properties of soils, including texture, horizons, structure, color, parent materials, and fertility;

(C) identify and classify soil orders;

(D) explain methods of soil conservation such as crop rotation, mulching, terracing, cover cropping, and contour plowing;

(E) describe the application of soil mechanics to buildings, landscapes, and crop production;

(F) research and explain soil management practices such as tillage trials and sustainable soil management practices;

(G) practice and explain soil evaluations related to experiential activities such as land judging;

(H) evaluate and determine soil health through soil testing; and

(I) analyze concepts of soil ecology.

(13) The student maps the process of soil formation influenced by weathering, including erosion processes due to water, wind, and mechanical factors influenced by climate. The student is expected to:

(A) illustrate the role of weathering in soil formations;

(B) distinguish between chemical weathering and mechanical weathering;

(C) identify geological formations that result from differing weathering processes; and

(D) describe the role of biotic factors in soil formation.

(14) The student explains the relationship of biotic and abiotic factors within habitats and ecosystems and their effects on plant ecology. The student is expected to:

(A) identify and define plant populations, ecosystems, communities, and biomes;

(B) distinguish between native and introduced plants in an ecosystem;

(C) investigate and describe characteristics of native and introduced plants;

(D) make observations and compile data about fluctuations in abiotic cycles;

(E) describe the effects of fluctuations in abiotic cycles on local ecosystems; and

(F) describe potential positive and negative impacts of human activity such as pest control, hydroponics, monoculture planting, and sustainable agriculture on ecosystems.

(15) The student evaluates components of plant science as they relate to crop production and advancements. The student is expected to:

(A) analyze the genetics and evolution of various crops;

(B) identify and classify plants according to taxonomy;

(C) identify characteristics related to seed quality, including mechanical damage, viability, and grade;

(D) identify plant pests and diseases using laboratory equipment such as microscopes, test kits, and technology;

(E) evaluate the effectiveness of plant management practices, including germination tests, plant spacing trials, and fertilizer tests;

(F) analyze trends in crop species and varieties grown locally in Texas and the United States and how trends affect producers and consumers; and

(G) investigate and identify recent advancements in plant and soil science such as biotechnology, artificial intelligence, and drone, infrared, and sensor technologies.

(16) The student describes the relationship between resources within environmental systems. The student is expected to:

(A) summarize and evaluate methods of land use and management;

(B) identify sources, quality, and conservation of water in plant production;

(C) explore and describe conservation practices such as rainwater collection, water-conserving irrigation systems, and use of biofuels;

(D) analyze and evaluate the economic significance and interdependence of components of the environment;

(E) debate the impact of human activity and technology on soil health and plant productivity;

(F) research and summarize the impact of natural disasters on soil health and plant productivity; and

(G) explain how regional changes in the environment may have a global effect.

(17) The student describes the dynamics of soil on watersheds and its effects on plant growth and production. The student is expected to:

(A) identify and record the characteristics of a local watershed such as average annual rainfall, runoff patterns, aquifers, location of water basins, and surface reservoirs; and

(B) analyze the impact of floods, drought, irrigation, urbanization, and industrialization in a watershed.

(18) The student analyzes plant and soil science as it relates to plant and soil relationships affecting the production of food, fiber, and other economic crops. The student is expected to:

(A) explain the importance and interrelationship of soil and plants;

(B) compare soil and plants in agricultural and urban settings;

(C) explain growing plants without soil (hydroponic techniques); and

(D) evaluate advantages and disadvantages of hydroponics.

(19) The student demonstrates skills related to the human, scientific, and technological dimensions of crop production and the resources necessary for producing domesticated plants. The student is expected to:

(A) describe the growth and development of major agricultural crops in Texas such as cotton, corn, sorghum, sugarcane, wheat, and rice;

(B) apply principles of genetics and plant breeding to plant production;

(C) illustrate the development of new crop varieties that are developed over time;

(D) design and conduct investigations to test principles of genetics; and

(E) identify and test alternative growing methods such as hydroponics and aquaponics used in plant production.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 20, 2024.

TRD-202403826
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: September 9, 2024
Proposal publication date: March 1, 2024
For further information, please call: (512) 475-1497

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SUBCHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS

19 TAC §127.795, §127.796

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(j), which allows the SBOE by rule to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum un-

der the TEC, §28.002; and TEC, §28.025(b-2)(2), which requires the SBOE to allow a student by rule to comply with the curriculum requirements for the third and fourth mathematics credits under TEC, §28.025(b-1)(2), or the third and fourth science credits under TEC, §28.025(b-1)(3), by successfully completing a CTE course designated by the SBOE as containing substantially similar and rigorous content.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a), (c), and (j); and 28.025(a) and (b-2)(2).

§127.795. Physics For Engineering (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: one credit of Algebra I and one credit of Chemistry, Physics, or Integrated Physics and Chemistry. Students must meet the 40% laboratory and fieldwork requirement. This course satisfies a high school science graduation requirement. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Science, Technology, Engineering, and Mathematics Career Cluster focuses on planning, managing, and providing scientific research and professional and technical services, including laboratory and testing services, and research and development services.

(3) In Applied Physics and Engineering, students conduct laboratory and field investigations, use scientific and engineering practices during investigations, and make informed decisions using critical thinking and scientific problem solving. Various systems are described in terms of space, time, energy, and matter. Students study topics, including laws of motion, conservation of energy, momentum, electricity, magnetism, thermodynamics, and characteristics and behavior of waves. Students apply physics concepts and perform laboratory experimentations for at least 40% of instructional time using safe practices.

(4) Nature of science. Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not scientifically testable.

(5) Scientific hypotheses and theories. Students are expected to know that:

(A) hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories; and

(B) scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well established and highly reliable explanations, but they may be subject to change as new areas of science and new technologies are developed.

(6) Scientific inquiry. Scientific inquiry is the planned and deliberate investigation of the natural world using scientific and engineering practices. Scientific methods of investigation are descriptive, comparative, or experimental. The method chosen should be appropriate to the question being asked. Student learning for different types of investigations include descriptive investigations, which involve collecting data and recording observations without making comparisons; comparative investigations, which involve collecting data with variables that are manipulated to compare results; and experimental investigations, which involve processes similar to comparative investigations but in which a control is identified.

(A) Scientific practices. Students should be able to ask questions, plan and conduct investigations to answer questions, and explain phenomena using appropriate tools and models.

(B) Engineering practices. Students should be able to identify problems and design solutions using appropriate tools and models.

(7) Science and social ethics. Scientific decision making is a way of answering questions about the natural world involving its own set of ethical standards about how the process of science should be carried out. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(8) Science consists of recurring themes and making connections between overarching concepts. Recurring themes include systems, models, and patterns. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested, while models allow for boundary specification and provide tools for understanding the ideas presented. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.

(9) Students are encouraged to participate in extended learning experiences such as career and technical student organizations, other leadership or extracurricular organizations, or practical, hands-on activities or experiences through which a learner interacts with industry professionals in a workplace, which may be an in-person, virtual, or simulated setting. Learners prepare for employment or advancement along a career pathway by completing purposeful tasks that develop academic, technical, and employability skills.

(10) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) describe and demonstrate how to dress appropriately, speak politely, and conduct oneself in a manner appropriate for the profession;

(B) describe and demonstrate how to cooperate, contribute, and collaborate as a member of a group in an effort to achieve a positive collective outcome;

(C) present written and oral communication in a clear, concise, and effective manner;

(D) demonstrate time-management skills in prioritizing tasks, following schedules, and performing goal-relevant activities in a way that produces efficient results; and

(E) demonstrate punctuality, dependability, reliability, and responsibility in performing assigned tasks as directed.

(2) Scientific and engineering practices. The student, for at least 40% of instructional time, asks questions, identifies problems, and plans and safely conducts classroom, laboratory, and field investigations to answer questions, explain phenomena, or design solutions using appropriate tools and models. The student is expected to:

(A) ask questions and define problems based on observations or information from text, phenomena, models, or investigations;

(B) apply scientific practices to plan and conduct descriptive, comparative, and experimental investigations and use engineering practices to design solutions to problems;

(C) use appropriate safety equipment and practices during laboratory, classroom, and field investigations as outlined in Texas Education Agency-approved safety standards;

(D) use appropriate tools such as ammeters, balances, ballistic carts or equivalent, batteries, calipers, Celsius thermometers, consumable chemicals, collision apparatus, computers and modeling software, constant velocity cars, data acquisition probes and software, discharge tubes with power supply (H, He, Ne, Ar), dynamics and force demonstration equipment, electroscopes, electrostatic generators, electrostatic kits, friction blocks, graphing technology, hand-held visual spectroscopes, hot plates, iron filings, laser pointers, light bulbs, macrometers, magnets, magnetic compasses, mass sets, metric rulers, meter sticks, models and diagrams, motion detectors, multimeters, optics bench, optics kit, optic lenses, pendulums, photogates, plane mirrors, polarized film, prisms, protractors, resistors, ripple tank with wave generators, rope or string, scientific calculators, simple machines, slinky springs, springs, spring scales, standard laboratory glassware, stopwatches, switches, tuning forks, timing devices, trajectory apparatus, voltmeters, wave motion ropes, wires, or other equipment and materials that will produce the same results;

(E) collect quantitative data using the International System of Units (SI) and qualitative data as evidence;

(F) organize quantitative and qualitative data using notebooks or engineering journals, bar charts, line graphs, scatter plots, data tables, equations, conceptual mathematical relationships, labeled drawings and diagrams, or graphic organizers such as Venn diagrams;

(G) develop and use models to represent phenomena, systems, processes, or solutions to engineering problems; and

(H) distinguish between scientific hypotheses, theories, and laws.

(3) Scientific and engineering practices. The student analyzes and interprets data to derive meaning, identify features and patterns, and discover relationships or correlations to develop evidence-based arguments or evaluate designs. The student is expected to:

(A) identify advantages and limitations of models such as their size, scale, properties, and materials;

(B) analyze data by identifying significant statistical features, patterns, sources of error, and limitations;

(C) use mathematical calculations to assess quantitative relationships in data; and

(D) assess and optimize experimental processes and engineering designs.

(4) Scientific and engineering practices. The student develops evidence-based explanations and communicates findings, conclusions, and proposed solutions. The student is expected to:

(A) develop explanations and propose solutions supported by data and models and consistent with scientific ideas, principles, and theories;

(B) communicate explanations and solutions individually and collaboratively in a variety of settings and formats; and

(C) engage respectfully in scientific argumentation using applied scientific explanations and empirical evidence.

(5) Scientific and engineering practices. The student knows the contributions of scientists and recognizes the importance of scientific research and innovation on society. The student is expected to:

(A) analyze, evaluate, and critique scientific explanations and solutions by using empirical evidence, logical reasoning, and experimental and observational testing so as to encourage critical thinking by the student;

(B) relate the impact of past and current research on scientific thought and society, including research methodology, cost-benefit analysis, and contributions of diverse scientists as related to the content; and

(C) research and explore resources such as museums, libraries, professional organizations, private companies, online platforms, and mentors employed in a science, technology, engineering, and mathematics (STEM) field in order to investigate STEM careers.

(6) The student thinks critically and creatively to devise a system or process in applying fundamental engineering solutions needed for a project to meet desired needs and specifications within constraints. The student is expected to:

(A) identify an engineering need through collaborative conversation or research;

(B) develop a proposal to execute an engineering solution that includes performance metrics and constraints such as economics, resources, or safety;

(C) analyze an implemented engineering solution and suggest changes to improve the engineering design or process; and

(D) assess the risks or trade-offs and benefits of a design solution such as accessibility, aesthetics, codes, cost, functionality, ethical considerations, or sustainability.

(7) The student uses the scientific and engineering practices to investigate physical concepts and phenomena. The student is expected to:

(A) develop and test hypotheses that can be supported by observational evidence;

(B) compare scientific concepts such as particle or wave behavior or the law of thermodynamics to describe physical phenomena;

(C) design procedures to conduct an investigation;

(D) perform accurate measurement techniques using precision instruments and proper techniques;

(E) identify and quantify causes and effects of uncertainties in measured data;

(F) analyze and interpret data using equations, tables, charts, and graphs to reveal potential patterns, trends, and sources of error; and

(G) communicate conclusions supported through various methods such as laboratory reports, labeled drawings, graphic organizers, journals, summaries, oral reports, or technology-based reports.

(8) The student demonstrates appropriate safety techniques in field and laboratory environments. The student is expected to:

(A) locate and apply safety guidelines as described in various manuals, instructions, or regulations; and

(B) identify hazardous materials and properly dispose of wastes.

(9) The student describes and applies the laws governing motion in a variety of situations. The student is expected to:

(A) generate and interpret relevant equations for one-dimensional motion using graphs and charts;

(B) define scalar and vector quantities;

(C) calculate displacement, distance, speed, velocity, average velocity, frames of reference, acceleration, and average acceleration using one-dimensional equations;

(D) calculate displacement, velocity, average velocity, acceleration, and average acceleration within a frame of reference using graphical vector addition;

(E) use graphs and charts to generate and interpret relevant equations for two-dimensional motion;

(F) explain projectile and circular motion using two-dimensional equations or vectors and apply the concepts to an investigation such as testing a catapult or carousel;

(G) explain Newton's first law of motion and apply the concepts of equilibrium and inertia to investigations using relevant real-world examples such as rockets, satellites, and automobile safety devices;

(H) conduct investigations that include calculations and free body diagrams to observe the effect of forces on objects, including tension, friction, normal force, gravity, centripetal force, and applied force, using the relationship between force, mass, and acceleration as represented by Newton's second law of motion;

(I) conduct or design investigations such as those that involve rockets, tug-of-war, or balloon cars to illustrate and analyze the simultaneous forces between two objects as represented in Newton's third law of motion using free body diagrams;

(J) design a model based on Newton's law of universal gravitation between two or more objects to determine the relationships between force, their masses, and the distance between their centers;

(K) design, evaluate, and refine a device that uses the concepts of impulse and conservation of momentum to minimize the net force on objects during collisions such as those that occur during vehicular accidents or sports activities or when a personal electronic device is dropped; and

(L) describe and calculate the mechanical energy of the power generated within, the impulse applied to, and the momentum of a physical system.

(10) The student describes the nature of forces in the physical world. The student is expected to:

(A) use Coulomb's law to predict how the magnitude of the electric force between two objects depends on their charges and the distance between their centers;

(B) build models such as generators, motors, and transformers that show how electric, magnetic, and electromagnetic forces and fields work in everyday life;

(C) test a variety of materials to determine conductive or insulative properties based on their electric properties;

(D) design, evaluate, and refine series and parallel circuits using schematics, digital resources, or materials such as switches, wires, resistors, lightbulbs, batteries, multimeters, voltmeters, and ammeters; and

(E) construct series and parallel circuits and use Ohm's Law to calculate current, potential difference, resistance, and power of various real-world series and parallel circuits such as models of in-home wiring, automobile wiring, and simple electrical devices.

(11) The student describes and applies the laws of the conservation of energy. The student is expected to:

(A) describe the transformations among work, potential energy, and kinetic energy using the work-energy theorem;

(B) calculate work, power, kinetic energy, and potential energy;

(C) identify, describe, and give real-world examples of simple machines such as levers, pulleys, wheels axles, wedges, screws, and inclined planes;

(D) calculate the mechanical advantage of simple machines; and

(E) apply the laws of conservation of energy to a physical system using simple machines such as a Rube Goldberg machine.

(12) The student analyzes the concept of thermal energy. The student is expected to:

(A) explain the laws of thermodynamics and how they relate to systems such as engines, heat pumps, refrigeration, solar, and heating and air conditioning;

(B) investigate and demonstrate the movement of thermal energy through various states of matter by convection, conduction, and radiation through environmental and man-made systems; and

(C) design, construct, and test a device or system that either minimizes or maximizes thermal energy consumption and perform a cost-benefit analysis such as comparing materials and energy sources that are renewable and nonrenewable.

(13) The student analyzes the properties of wave motion and optics. The student is expected to:

(A) examine and describe oscillatory motion using pendulums and wave propagation in various types of media;

(B) investigate and analyze characteristics of waves, including period, velocity, frequency, amplitude, and wavelength;

(C) investigate and calculate the relationship between wave speed, frequency, and wavelength;

(D) compare the characteristics and behaviors of transverse waves and longitudinal waves, including electromagnetic waves and sound waves;

(E) describe how the differences in wavelength and frequency within the electromagnetic spectrum impact real-world technologies such as radio, x-rays, and microwaves;

(F) investigate and explain behaviors of waves, including reflection, refraction, diffraction, interference, resonance, polarization, and the Doppler effect; and

(G) describe and predict image formation as a consequence of reflection from a plane mirror and refraction through a thin convex lens.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 20, 2024.

TRD-202403827
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: September 9, 2024
Proposal publication date: March 1, 2024
For further information, please call: (512) 475-1497

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SUBCHAPTER P. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS

19 TAC §§127.887 - 127.890, 127.920

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002(a), which identifies the subjects of the required curriculum; TEC, §28.002(c), which requires the SBOE to identify by rule the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; TEC, §28.002(j), which allows the SBOE by rule to require laboratory instruction in secondary science courses and require a specific amount or percentage of time in a secondary science course that must be laboratory instruction; TEC, §28.025(a), which requires the SBOE to determine by rule the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002; and TEC, §28.025(b-2)(2), which requires the SBOE to allow a student by rule to comply with the curriculum requirements for the third and fourth mathematics credits under TEC, §28.025(b-1)(2), or the third and fourth science credits under TEC, §28.025(b-1)(3), by successfully completing a CTE course designated by the SBOE as containing substantially similar and rigorous content.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§7.102(c)(4); 28.002(a), (c), and (j); and 28.025(a) and (b-2)(2).

§127.889. Aircraft Powerplant Technology (Two Credits), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Aircraft Maintenance Technology. Students shall be awarded two credits for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Transportation, Distribution, and Logistics Career Cluster focuses on planning, management, and movement of people, materials, and goods by road, pipeline, air, rail, and water and related professional support services such as transportation infrastructure planning and management, logistics services, mobile equipment, and facility maintenance.

(3) Aircraft Powerplant Technology is designed to teach the theory of operation of aircraft powerplants and associated maintenance and repair practices of the Federal Aviation Administration (FAA) powerplant curriculum subjects utilizing aircraft, aircraft training devices, or equivalent simulated situations. In this course, the academic and technical skills are separated to reflect the learning outcomes as designed in the FAA Airman Certification Standards. Powerplant maintenance and repair practices include knowledge of the theory, function, diagnosis, and service of powerplants, systems, and components of aircraft. Industry-recognized professional licensures, certifications, and registrations are available for students who meet the requirements set forth by the accrediting organization.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(6) The FAA uses standard terms with specific expectations for performance. The terms are defined as follows.

(A) Check means to verify proper operation.

(B) Inspect means to examine with or without inspection enhancing tools or equipment.

(C) Overhaul means to disassemble, clean, inspect, repair as necessary, and reassemble.

(D) Repair means to correct a defective condition.

(E) Service means to perform functions that assure continued operation.

(F) Troubleshoot means to analyze and identify malfunctions.

(7) When a student performs an action, such as checking, inspecting, overhauling, repairing, servicing, troubleshooting, and installing in this course, they are to complete all associated tasks. If an action detects a flaw, defect, or discrepancy in an aircraft or component, that finding could trigger another maintenance action. Actions may include documenting findings through logbook entries, maintenance action forms, installation plans, and work orders.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and compare employment opportunities, including entrepreneurship opportunities, and certification requirements for the field of aircraft maintenance;

(B) identify and demonstrate ways to contribute and collaborate as an effective member of a team;

(C) identify individual ethical and legal behavior standards according to professional and regulatory agencies;

(D) research and discuss the impact of the English language proficiency requirements as prescribed by the Federal Aviation Regulations;

(E) identify and explain human factors that may impact health and safety in a worksite as addressed by industry standards;

(F) explain the role of human factors in maintaining health and safety in the workplace and demonstrate personal responsibility to maintain health and safety in the workplace;

(G) identify and explain how employees' personal responsibility attitudes can affect the success and profitability of a workplace;

(H) apply reasoning skills to a variety of simulated workplace situations in order to make ethical decisions;

(I) identify standards of industry related to employee appearance and health habits;

(J) identify and practice effective written and oral communication skills;

(K) identify and practice effective listening skills; and

(L) define and apply FAA standard terms that have specific expectations for performance, including check, inspect, overhaul, repair, service, and troubleshoot.

(2) The student relates academic skills to the requirements of reciprocating engines. The student is expected to:

(A) identify the components and types of reciprocating internal combustion aircraft engines, including inline, opposed, V-type, and radial engines;

(B) explain the operational theory of reciprocating internal combustion aircraft engines, including inline, opposed, V-type, and radial engines;

(C) explain the purpose and methods of reciprocating engine preservation;

(D) explain the purpose and methods of reciprocating engine maintenance and inspection;

(E) locate and explain the procedures for reciprocating engine ground operations;

(F) identify the components and explain the basic operation of diesel engines;

(G) explain the basic operational theory of diesel engines;

(H) research and identify the risks of maintenance that requires moving the propeller;

(I) research and identify the risks of ground operating a reciprocating engine;

(J) research and identify the actions necessary in the event of a reciprocating engine fire; and

(K) research and identify the risks in not using the manufacturer's procedures during maintenance.

(3) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for reciprocating engines, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) perform and document findings from a cylinder assembly inspection;

(B) operate and troubleshoot a reciprocating engine;

(C) install a wrist pin in a piston;

(D) identify the parts of a cylinder and a crankshaft;

(E) identify and inspect bearings found in reciprocating engines; and

(F) inspect and rig cable and push-pull engine controls.

(4) The student relates academic skills to the requirements of turbine engines. The student is expected to:

(A) identify the components and types of turbine engines;

(B) explain the basic operational theory of turbine engines;

(C) explain the purpose and methods of monitoring turbine engine performance;

(D) explain the purpose and methods of turbine engine troubleshooting, maintenance, and inspection;

(E) research and explain the causes of turbine engine performance loss;

(F) explain the basic operational theory of bleed air systems;

(G) explain the purpose and methods of turbine engine preservation;

(H) explain the theory and application of auxiliary power units;

(I) research and identify the risks of turbine engine operation;

(J) research and identify the risks of performing maintenance on a turbine engine;

(K) research and identify the actions necessary in the event of a turbine engine fire; and

(L) research and identify the risks of foreign object damage (FOD) to turbine engines.

(5) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for turbine engines, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify different turbine compressors;

(B) identify different types of turbine engine blades;

(C) identify components of turbine engines;

(D) map airflow direction and pressure changes in turbine engines;

(E) identify and locate the procedures for the adjustment of a fuel control unit;

(F) identify and locate the installation or removal procedures for a turbine engine;

(G) identify damaged turbine engine blades; and

(H) analyze causes for turbine engine performance loss.

(6) The student relates academic skills to the requirements of engine inspection. The student is expected to:

(A) explain the purpose of inspection requirements under 14 Code of Federal Regulations (CFR) Part 43 and 14 CFR Part 91;

(B) explain the purpose and methods of identification of life-limited parts and life-limited parts replacement intervals;

(C) explain the purpose and types of special inspections such as sudden engine stoppage, hard landings, and foreign object debris (FOD) ingestion;

(D) explain the purpose of using FAA-approved data;

(E) explain the importance of compliance with service letters, service bulletins, instructions for continued airworthiness, airworthiness directives (AD), and Type Certificate Data Sheets (TCDS);

(F) explain the purpose of maintenance recordkeeping requirements under 14 CFR Part 43;

(G) explain the purpose of engine component inspection, checking, and servicing;

(H) explain the importance of inspecting engine mounts and mounting hardware;

(I) research and identify the risks of performing a compression test on a reciprocating engine; and

(J) research and identify the risks of performing maintenance on an operating reciprocating engine and a turbine engine.

(7) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine inspection, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) evaluate a powerplant for compliance with FAA-approved or manufacturer data;

(B) perform a powerplant records inspection;

(C) inspect a powerplant for compliance with applicable ADs;

(D) determine powerplant installation eligibility in accordance with the TCDS;

(E) inspect engine controls for proper operation and adjustment;

(F) inspect an aircraft engine accessory for serviceability;

(G) inspect engine records for time or cycles on life-limited parts;

(H) perform an engine start and inspect engine operational parameters; and

(I) inspect an engine mount to determine serviceability.

(8) The student relates academic skills to the requirements of engine instrument systems. The student is expected to:

(A) identify the components of engine instrument systems, including fuel flow, temperature, engine speed, pressure, torque meter, engine pressure ratio (EPR), engine indicating and crew alerting system (EICAS), and electronic centralized aircraft monitor (ECAM);

(B) explain the operational theory of engine instrument systems, including fuel flow, temperature, engine speed, pressure, torque meter, EPR, EICAS, and ECAM;

(C) describe the types of annunciator indicators and the functions of annunciator indicating systems;

(D) define the meaning of annunciator indicating system warning, caution, and advisory lights;

(E) identify the components and explain the operational theory of full authority digital engine controls (FADEC);

(F) explain the purpose and methods of marking engine instrument ranges;

(G) research and identify the risks of damaging instrument systems or indicating systems during maintenance; and

(H) research and identify the risks of inaccurate engine instrument calibration or inaccurate instrument readings.

(9) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine inspection, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) remove, inspect, and install a fuel-flow transmitter;

(B) remove, inspect, and install a fuel-flow gauge;

(C) identify components of an electric tachometer system;

(D) inspect tachometer markings for accuracy;

(E) locate procedures for troubleshooting a turbine EPR system;

(F) inspect exhaust gas temperature (EGT) probes;

(G) locate and inspect engine low fuel pressure warning system components; and

(H) troubleshoot an EGT indicating system.

(10) The student relates academic skills to the requirements of engine fire protection systems. The student is expected to:

(A) identify types of fires such as electrical, structural, and petroleum-based fires and explain the purpose of engine fire zones;

(B) identify the components and explain the basic operation of fire detection warning systems;

(C) explain the purpose of fire detection system maintenance and inspection requirements;

(D) identify fire extinguishing agents and types of fire extinguishing systems;

(E) explain the purpose and methods of fire extinguishing system maintenance and inspection;

(F) research and identify the risks of container discharge cartridges;

(G) research and identify the risks of extinguishing agents; and

(H) research and identify the risks of maintenance on circuits associated with electrically activated container discharge cartridges.

(11) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine fire protection systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify fire detection sensing units;

(B) locate troubleshooting procedures for a fire detection system;

(C) inspect fire extinguisher discharge circuit;

(D) check operation of fire warning press-to-test and troubleshoot faults; and

(E) identify continuous-loop fire detection system components.

(12) The student relates academic skills to the requirements of engine electrical systems. The student is expected to:

(A) identify the components of engine electrical systems, including alternating current generators, direct current generators, alternators, starter generators, voltage regulators, overvoltage protection, and overcurrent protection;

(B) explain the operational theory of engine electrical systems, including alternating current generators, direct current generators, alternators, starter generators, voltage regulators, overvoltage protection, and overcurrent protection;

(C) explain the procedure for locating the correct electrical wire size needed to fabricate a wire;

(D) explain the purpose of engine electrical wiring, switches, and protective devices;

(E) research and identify the risks of reversing polarity when performing electrical system maintenance;

(F) research and identify the actions necessary in response to a warning or caution annunciator light;

(G) research and identify the risks of performing maintenance on energized aircraft systems; and

(H) research and identify the risks of improper routing and securing wiring near flammable fluid lines.

(13) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine electrical systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) inspect engine electrical wiring, switches, cable, and protective devices;

(B) analyze the suitability of a replacement component by part number;

(C) troubleshoot a direct-drive electric starter system;

(D) select the appropriate wire size for engine electrical system;

(E) repair a broken engine electrical system wire;

(F) troubleshoot an electrical system using a schematic or wiring diagram;

(G) fabricate a bonding jumper; and

(H) inspect engine electrical connectors.

(14) The student relates academic skills to the requirements of engine lubrication systems. The student is expected to:

(A) describe types, grades, and uses of engine oil;

(B) identify the components and explain the basic operation of lubrication systems, including wet-sumps and dry-sumps;

(C) explain the purpose of chip detectors;

(D) explain the purpose and methods of lubrication system maintenance, inspection, servicing, and analysis;

(E) explain the causes of excessive aircraft engine oil consumption;

(F) research and identify the risks of mixing engine oils;

(G) research and identify the risks in not using the manufacturer's recommendations regarding the use of engine lubricants; and

(H) research and identify the risks of improper handling, storage, and disposal of used lubricating oil.

(15) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine lubrication systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) inspect an oil cooler or oil lines;

(B) identify the correct type of oil for a specific engine;

(C) identify approved oils for different climatic temperatures;

(D) identify and locate procedures for obtaining oil samples;

(E) inspect an oil filter or screen based on industry standards;

(F) identify oil system components;

(G) replace an oil system component;

(H) identify oil system flow through the engine;

(I) troubleshoot an engine oil pressure malfunction;

(J) troubleshoot an engine oil temperature system; and

(K) identify types of metal found in an oil filter.

(16) The student relates academic skills to the requirements of ignition and starting systems. The student is expected to:

(A) identify the components of ignition systems, including spark plugs, shower of sparks, magnetos, impulse couplings, solid-state ignitions, and FADECs;

(B) explain the operational theory of ignition systems and components, including spark plugs, shower of sparks, magnetos, impulse couplings, solid-state ignitions, and FADECs;

(C) identify the components and explain the basic operation of engine starters;

(D) identify the components and explain the basic operation of turbine engine ignition systems;

(E) research and identify the risks of advanced and retarded ignition timing on piston engines;

(F) research and identify the risks of maintenance on engines with capacitor discharge ignition systems; and

(G) research and identify the risks of working around reciprocating engines with an ungrounded magneto.

(17) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for ignition and starting systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) remove, clean, inspect, and install a spark plug;

(B) inspect an electrical starting system;

(C) troubleshoot an electrical starting system;

(D) troubleshoot an ignition switch circuit;

(E) identify the correct spark plugs used for replacement installation; and

(F) identify the correct igniter plug on a turbine engine.

(18) The student relates academic skills to the requirements of engine fuel and fuel metering systems. The student is expected to:

(A) explain the purpose of proper fuel to air ratios and fuel metering;

(B) identify the components, basic operation, and adjustment of fuel metering systems, including float carburetor, pressure carburetor, continuous-flow fuel injection, FADEC, and hydromechanical fuel control;

(C) explain the purpose and basic operation of fuel heaters, lines, pumps, valves, filters, and drains;

(D) explain the basic operation of fuel nozzles and manifolds;

(E) identify the components and explain the basic operation of turbine engine fuel metering systems;

(F) locate and explain inspection requirements for an engine fuel system;

(G) explain fuel system operation;

(H) research and identify the risks of adjusting turbine engine fuel controls;

(I) research and identify the risks of adjusting reciprocating engine fuel controls;

(J) research and identify the risks of handling fuel metering system components or fuel control units that may contain fuel; and

(K) research and identify the risks of fuel system maintenance.

(19) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine fuel and fuel metering systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify carburetor components;

(B) identify fuel and air flow through a float-type carburetor;

(C) remove and install a carburetor main metering jet;

(D) inspect the needle, seat, and float level on a float-type carburetor;

(E) adjust carburetor idle speed and mixture;

(F) research and locate procedures for a turbine engine revolutions per minute overspeed inspection;

(G) research and locate procedures for adjusting a hydromechanical fuel control unit;

(H) explain procedures for removing and installing a turbine engine fuel control unit;

(I) identify components of an engine fuel system;

(J) identify fuel selector placards;

(K) inspect engine fuel system fluid lines and components;

(L) locate the procedures for troubleshooting a turbine engine fuel heater system; and

(M) inspect fuel selector valve.

(20) The student relates academic skills to the requirements of reciprocating engine induction and cooling systems. The student is expected to:

(A) identify the components and explain the theory of operation of reciprocating engine induction and cooling systems;

(B) explain the causes and effects of induction system icing;

(C) identify the components and explain the theory of superchargers, supercharger controls, turbochargers, turbocharger controls, and intercoolers;

(D) identify the components and explain the theory of augmenter cooling systems;

(E) identify the components and explain the theory of induction system filtering and carburetor heaters;

(F) research and identify the risks of maintenance on turbochargers;

(G) research and identify the risks of ground operation of aircraft engines;

(H) research and identify the risks of maintenance-related foreign object debris and foreign object damage; and

(I) research and identify the risks of chemicals used in liquid cooling systems.

(21) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for reciprocating engine induction and cooling systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) inspect a carburetor heat system;

(B) inspect an alternate air valve for proper operation;

(C) inspect an induction system drain for proper operation;

(D) service an induction air filter;

(E) inspect an induction system for obstruction;

(F) inspect an air intake manifold for leaks;

(G) locate the proper specifications for coolant used in a liquid-cooled engine;

(H) inspect reciprocating engine cooling ducting and baffle seals for damage;

(I) identify components of a turbocharger induction system;

(J) identify exhaust augmenter-cooled engine components;

(K) inspect and repair a cylinder baffle;

(L) inspect a cowl flap system for normal operation; and

(M) inspect cylinder cooling fins for damage.

(22) The student relates academic skills to the requirements of turbine engine air systems. The student is expected to:

(A) identify the components and explain the operational theory of air cooling systems, turbine engine induction systems, turbine engine bleed air systems and turbine engine anti-ice systems;

(B) explain the purpose and theory of turbine engine cowling air flow and turbine engine internal cooling;

(C) identify the components and purpose of turbine engine baffle and methods of seal installation;

(D) identify and explain the purpose of turbine engine insulation blankets and shrouds;

(E) research and identify the risks of maintenance on compressor bleed air systems; and

(F) research and identify the risks of ground operation of aircraft engines following other than manufacturer's instructions.

(23) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for turbine engine air systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify location of turbine engine insulation blankets;

(B) identify turbine engine cooling air flow;

(C) inspect rigid or flexible turbine engine cooling ducting or baffle seals; and

(D) identify turbine engine ice and rain protection system components.

(24) The student relates academic skills to the requirements of engine exhaust and reverser systems. The student is expected to:

(A) identify the components of reciprocating engine exhaust systems, turbine engine exhaust systems, noise suppression systems, and thrust reversers;

(B) explain the operational theory of reciprocating engine exhaust systems, turbine engine exhaust systems, noise suppression systems, and thrust reversers;

(C) research and identify the risks of maintenance and inspection of exhaust system components;

(D) research and identify the risks of operating reciprocating engines with exhaust systems leaks and exhaust system failures; and

(E) research and identify the risks of ground operation of aircraft engines.

(25) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for engine exhaust and reverser systems, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify the type of exhaust system on a particular aircraft;

(B) inspect exhaust system;

(C) locate and explain procedures for testing and troubleshooting a turbine thrust reverser system; and

(D) perform a pressure leak check of a reciprocating engine exhaust system.

(26) The student relates academic skills to the requirements of propellers. The student is expected to:

(A) explain the theory and operation of propellers;

(B) identify types of propellers and blade design;

(C) explain the theory and operation of constant speed propellers, pitch control systems, and propeller governors;

(D) explain the theory and operation of turbine engine propeller beta range operation;

(E) explain the purpose and methods of propeller servicing, maintenance, and inspections;

(F) identify and locate procedures for removal and installation of a propeller;

(G) explain the purpose of propeller TCDS;

(H) explain the theory and operation of propeller synchronization systems and propeller ice control systems; and

(I) research and identify the risks of propeller ground operation, maintenance, and inspections.

(27) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for propellers, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) check blade static tracking;

(B) inspect a propeller for condition and airworthiness;

(C) measure propeller blade angle;

(D) locate and explain the procedures for balancing a fixed-pitch propeller;

(E) identify propeller range of operation; and

(F) determine what minor propeller alterations are acceptable using the propeller specifications, TCDS, and listings.

§127.890. Aircraft Maintenance Technology (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisites: Introduction to Aircraft Technology. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Transportation, Distribution, and Logistics Career Cluster focuses on planning, management, and movement of people, materials, and goods by road, pipeline, air, rail, and water and related professional support services such as transportation infrastructure plan-

ning and management, logistics services, mobile equipment, and facility maintenance.

(3) Aircraft Maintenance Technology is designed to teach the theory of operation, general maintenance, and repair practices of Federal Aviation Administration (FAA) general curriculum subjects utilizing aircraft, aircraft training devices, or equivalent simulated situations. In this course, the academic and technical skills are separated to reflect the learning outcomes as designed in the FAA airman certification standards. Maintenance and repair practices include knowledge of the function, diagnosis, and service of aircraft and their associated equipment. Industry-recognized professional licensures, certifications, and registrations are available for students who meet the requirements set forth by the accrediting organization.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(6) The FAA uses standard terms with specific expectations for performance. The terms are defined as follows.

(A) Check means to verify proper operation.

(B) Inspect means to examine with or without inspection enhancing tools or equipment.

(C) Overhaul means to disassemble, clean, inspect, repair as necessary, and reassemble.

(D) Repair means to correct a defective condition.

(E) Service means to perform functions that assure continued operation.

(F) Troubleshoot means to analyze and identify malfunctions.

(7) When a student performs an action, such as checking, inspecting, overhauling, repairing, servicing, troubleshooting, and installing in this course, they are to complete all associated tasks. If an action detects a flaw, defect, or discrepancy in an aircraft or component, that finding could trigger another maintenance action. Actions may include documenting findings through logbook entries, maintenance action forms, installation plans, and work orders.

(d) Knowledge and skills.

(1) The student demonstrates professional standards, interpersonal communication, and employability skills as required by business and industry. The student is expected to:

(A) identify employment opportunities, including entrepreneurship opportunities, and certification requirements for the field of aircraft maintenance and repair;

(B) identify and demonstrate ways to contribute and collaborate as an effective member of a team;

(C) identify individual ethical and legal behavior standards according to professional and regulatory agencies;

(D) research and discuss the impact of the English language proficiency requirements as prescribed by the Federal Aviation Regulations;

(E) identify and explain the technical knowledge and skills related to human factors in health and safety in the worksite as addressed by industry standards;

(F) explain the role of human factors in maintaining health and safety in the workplace and demonstrate personal responsibility to maintain health and safety in the worksite;

(G) identify and explain how employees' personal responsibility attitudes can affect the success and profitability of a worksite;

(H) apply reasoning skills to a variety of workplace situations to make ethical decisions;

(I) identify industry standards related to employee appearance and health habits;

(J) practice effective written and oral communication skills;

(K) identify and practice effective listening skills; and

(L) define and apply FAA standard terms that have specific expectations for performance, including check, inspect, overhaul, repair, service, and troubleshoot.

(2) The student relates academic skills to the requirements of human factors. The student is expected to:

(A) describe safety culture and organizational structures in the work environment;

(B) identify and explain types of human error and human factor principles;

(C) identify and discuss the chain-of-events theory, including pre-conditions and conditions for unsafe acts;

(D) identify and discuss the 12 common causes of mistakes in the aviation workplace; and

(E) research and discuss the purpose of safety management systems in the aviation workplace.

(3) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for human factors, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) complete and submit a malfunction and defect report; and

(B) research and report on information regarding human factor errors.

(4) The student relates academic skills to the requirements of aviation mathematics. The student is expected to:

(A) perform algebraic operations involving addition, subtraction, multiplication, and division, using positive and negative numbers;

(B) determine areas and volumes of various geometric shapes;

(C) solve ratio, proportion, and percentage problems; and

(D) extract roots and raise numbers to a given power.

(5) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for aviation mathematics, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) compute the volume of a shape such as a baggage compartment, a fuel tank, or an engine cylinder;

(B) compute the area of an aircraft wing;

(C) convert between fractions and decimals;

(D) compute torque value conversions between inch-pounds and foot-pounds; and

(E) compute the compression ratio of a reciprocating engine cylinder.

(6) The student relates academic skills to the requirements of fundamentals of electricity and electronics. The student is expected to:

(A) explain electron theory, including magnetism, capacitance, induction, direct current electrical circuits, and alternating current electrical circuits;

(B) explain electrical theories and laws, including Ohm's Law, Kirchhoff's Law, Watt's Law, Faraday's Law, Lenz's Law, and right-hand rule;

(C) identify and explain electrical measurement principles and related tools and procedures for measuring voltage, current, resistance, and power;

(D) compare types of batteries; and

(E) compare series circuits and parallel circuits.

(7) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for fundamentals of electricity and electronics, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) use multimeters to perform circuit continuity tests, test a switch and fuse, and measure voltage, current, and resistance;

(B) interpret aircraft electrical circuit diagrams and symbols;

(C) inspect and service an aircraft battery; and

(D) identify faults in circuits by using appropriate troubleshooting techniques.

(8) The student relates academic skills to the requirements of physics for aviation. The student is expected to:

(A) explain the theory of flight, including lift, weight, thrust, and drag, as related to Bernoulli's Principle, Newton's Laws of Motion, and fluid mechanics;

(B) describe the function and operation of aircraft flight controls and additional aerodynamic devices, including vortex generators, wing fences, and stall strips; and

(C) analyze and compare standard atmospheric factors affecting atmospheric conditions, including the relationship between temperature, density, weight, and volume.

(9) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for physics for aviation, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) determine density and pressure altitude;

(B) identify changes to pressure and velocity of a fluid as it passes through a venturi;

(C) calculate force, area, and pressure for a given scenario related to aircraft maintenance; and

(D) calculate the lift of an aircraft and determine if the aircraft will climb, descend, or maintain altitude given its weight.

(10) The student relates academic skills to the requirements of weight and balance. The student is expected to:

(A) describe the purpose of weighing an aircraft and determining the aircraft's center of gravity;

(B) explain the procedures for weighing an aircraft, including the general preparation for weighing, with emphasis on aircraft weighing area considerations;

(C) explain the procedures for calculating center of gravity, including arm, positive and negative moment, center of gravity, and moment index; and

(D) explain adverse loading considerations, proper empty weight configuration, and ballast placement.

(11) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for weight and balance, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) calculate aircraft weight and balance, including equipment changes, empty weight, and empty weight center of gravity; and

(B) locate datum, weight and balance information, placarding, and limitation requirements for an aircraft in an appropriate reference such as the type certificate data sheet.

(12) The student relates academic skills to the requirements of aircraft drawings. The student is expected to:

(A) identify and use aircraft drawing terminology; and

(B) interpret aircraft drawings, blueprints, sketches, charts, graphs, and system schematics related to repairs, alterations, and inspections.

(13) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for aircraft drawings, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify and describe the meaning of lines and symbols used in an aircraft drawing;

(B) interpret dimensions used in an aircraft drawing;

(C) identify changes to aircraft drawings; and

(D) identify material requirements indicated by an aircraft drawing.

(14) The student relates academic skills to the requirements of regulations, forms, and publications. The student is expected to:

(A) identify recency of experience requirements, the privileges and limitations of mechanic certificates, and how to reestablish privileges once they are lost;

(B) define maintenance terminology as defined in 14 Code of Federal Regulations (CFR) Part 1, including time in service, maintenance, preventive maintenance, major alteration, major repair, minor alteration, and minor repair;

(C) describe requirements for maintenance record entries for approval for return to service after maintenance, alterations, and inspections;

(D) identify compliance requirements for manufacturer-specified maintenance methods, techniques, practices, and inspection intervals;

(E) explain FAA-approved maintenance data, including maintenance manuals and other methods acceptable by the administrator; and

(F) describe mechanic change of address notification procedures.

(15) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for regulations, forms, and publications, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) evaluate a 100-hour inspection aircraft maintenance record entry for accuracy;

(B) locate applicable FAA aircraft specifications and FAA Type Certificate Data Sheets (TCDS) for an aircraft or component;

(C) determine the conformity of aircraft instrument range markings and placarding;

(D) use a manufacturer's illustrated parts catalog to locate specific part numbers for aircraft parts such as door handles, rudder pedals, or seat latches;

(E) determine whether a given repair or alteration is major or minor; and

(F) explain the difference between approved data such as data required for major repairs or alterations and acceptable data such as data required for minor repairs or alterations.

(16) The student relates academic skills to the requirements of fluid lines and fittings. The student is expected to:

(A) identify rigid tubing and flexible hose materials, applications, sizes, and fittings;

(B) describe rigid tubing and flexible hose fabrication, installation, and inspection techniques;

(C) explain the importance of properly using a torque wrench and torque seal when securing fluid hose and line fittings; and

(D) analyze and describe the risks associated with high-pressure hydraulic system configuration prior to and during maintenance.

(17) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for fluid lines and fittings, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) fabricate and install a rigid line with a flare and a bend;

(B) fabricate and install a flexible hose; and

(C) perform a rigid line and flexible hose inspection.

(18) The student relates academic skills to the requirements of aircraft materials, hardware, and processes. The student is expected to:

(A) identify and describe material markings and hardware markings commonly used in aircraft;

(B) compare suitability and compatibility of materials and hardware used for maintenance;

(C) explain forces placed on aircraft materials, including tension, compression, torsion, bending, strain, and shear;

(D) identify safety wire and safety clip requirements and techniques;

(E) identify cotter pin requirements and techniques;

(F) describe precision measurement tools, principles, and procedures;

(G) explain soldering preparation, types of solder, and flux usage;

(H) analyze torquing tools, principles, and procedures and the relationship between torque and fastener preload; and

(I) differentiate between the characteristics of acceptable and unacceptable welds.

(19) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for aircraft materials, hardware, and processes, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) select aircraft materials and hardware such as bolts, turnbuckles, washers, and rivets based on manufacturer's markings appropriate for a specific scenario;

(B) install safety wire on hardware such as nuts, bolts, and turnbuckles;

(C) install cotter pins on hardware such as nuts and bolts;

(D) check for proper calibration of a precision-measurement tool and record precision measurements with an instrument that has a Vernier scale;

(E) determine required torque values and properly torque aircraft hardware; and

(F) inspect welds and differentiate between acceptable and unacceptable welds.

(20) The student relates academic skills to the requirements of ground operations and servicing. The student is expected to:

(A) describe proper towing and securing procedures for aircraft using approved data;

(B) describe proper aircraft ground servicing, including oil, oxygen, hydraulic, pneumatic, and deicing systems and fueling and defueling procedures;

(C) differentiate between characteristics of aviation gasoline, turbine fuels, and fuel additives;

(D) explain engine starting, ground operation, and aircraft taxiing procedures;

(E) explain airport operation area procedures and air traffic control communications, including runway incursion prevention;

(F) identify the types and classes of fire extinguishers;

(G) analyze the importance of proper tool and hardware use and accountability;

(H) describe the need for proper material handling and parts protection;

(I) identify hazardous materials, locate the appropriate safety data sheet (SDS), and select the indicated personal protection equipment (PPE); and

(J) analyze and describe the potential effects of foreign object damage (FOD) on aircraft.

(21) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for ground operations and servicing, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) perform a foreign object damage (FOD) control procedure;

(B) connect external power to an aircraft;

(C) prepare an aircraft for towing;

(D) use appropriate hand signals for the movement of aircraft;

(E) identify different grades of aviation fuel and select an approved fuel for an aircraft;

(F) prepare an aircraft for fueling and inspect an aircraft fuel system for water and foreign object debris (FOD) contamination;

(G) follow a checklist to start up or shut down an aircraft reciprocating or turbine engine;

(H) identify procedures for extinguishing fires in an engine induction system;

(I) secure an aircraft by locating and following the correct procedures for a turbine-powered aircraft after engine shutdown; and

(J) locate and explain procedures for securing a turbine-powered aircraft after engine shutdown.

(22) The student relates academic skills to the requirements of cleaning and corrosion control. The student is expected to:

(A) explain the need for aircraft cleaning procedures;

(B) explain corrosion theory, including types and effects of corrosion, corrosion-prone areas in aircraft, and corrosion preventive maintenance procedures;

(C) describe corrosion identification and inspection techniques, corrosion removal and treatment procedures, the selection of optimal corrosion preventive compounds (CPC), and the frequency of corrosion treatment;

(D) describe the use of high-pressure application equipment;

(E) identify and discuss the effects of improper use of cleaners on aluminum or composite materials;

(F) explain accelerated corrosion caused by dissimilar metals and the role of protective barriers, including conversion coatings, materials used for protection of airframe structures, and primer materials, to mitigate this risk;

(G) identify topcoat materials and discuss concerns regarding surface preparation for a desired finishing material, effects of ambient conditions on finishing materials, and effects of improper surface preparation on finishing materials; and

(H) identify health concerns when using paints, solvents, and finishing materials and processes, including the use of PPE.

(23) The student uses regulatory and industry standards and demonstrates technical knowledge and skills for cleaning and corrosion control, utilizing aircraft, aircraft training devices, or equivalent simulated situations. The student is expected to:

(A) identify types of protective finishes;

(B) inspect finishes for corrosion and identify, select, and use aircraft corrosion prevention and cleaning materials; and

(C) apply aircraft corrosion prevention and coating materials.

§127.920. Advanced Transportation Systems Laboratory (One Credit), Adopted 2024.

(a) Implementation. The provisions of this section shall be implemented by school districts beginning with the 2025-2026 school year.

(b) General requirements. This course is recommended for students in Grades 11 and 12 as a corequisite course for students participating in a coherent sequence of career and technical education courses in the Transportation, Distribution, and Logistics Career Cluster. This course provides an enhancement opportunity for students to develop the additional skills necessary to pursue industry certification. Recommended prerequisite: a minimum of one credit from the courses in the Transportation, Distribution, and Logistics Career Cluster. Corequisites: Automotive Technology II: Automotive Service, Diesel Equipment Technology II, Collision Repair, Paint and Refinishing, Aircraft Airframe Technology, Aircraft Maintenance Technology, or Aircraft Powerplant Technology. This course must be taken concurrently with a corequisite course and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with the corequisite course to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(c) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Transportation, Distribution, and Logistics Career Cluster focuses on planning, management, and movement of people, materials, and goods by road, pipeline, air, rail, and water and related professional support services such as transportation infrastructure planning and management, logistics services, mobile equipment, and facility maintenance.

(3) Advanced Transportation Systems Laboratory provides the opportunity to extend knowledge of the major transportation systems and the principles of diagnosing and servicing these systems. Topics in this course may include alternative fuels such as hybrid, bio diesel, hydrogen, compressed natural gas (CNG), liquidized natural gas (LNG), propane, and solar; total electric vehicles and power trains; advanced transportation systems such as collision avoidance, telematics, vehicle stability control, navigation, vehicle-to-vehicle communications; and other technologies. This study will allow students to have an increased understanding of science, technology, engineering, and mathematics in all aspects of these systems. This will reinforce, apply, and transfer academic knowledge and skills to a variety of relevant activities, problems, and settings.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(d) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate knowledge of the technical knowledge and skills related to health and safety in the workplace such as safety glasses and other personal protective equipment (PPE) and safety data sheets (SDS);

(B) identify employment opportunities, including entrepreneurship opportunities and internships, and industry-recognized certification requirements in the transportation field of study;

(C) demonstrate the principles of group participation, team concept, and leadership related to citizenship and career preparation;

(D) apply competencies related to resources, information, interpersonal skills, problem solving, critical thinking, and systems of operation in the transportation industry;

(E) discuss certification opportunities;

(F) discuss response plans to emergency situations;

(G) identify employers' expectations and appropriate work habits, ethical conduct, legal responsibilities, and good citizenship skills; and

(H) develop personal goals, objectives, and strategies as part of a plan for future career and educational opportunities.

(2) The student demonstrates an understanding of the technical knowledge and skills that form the core of knowledge of transportation services. The student is expected to:

(A) extend knowledge of new and emerging transportation technologies related to the corequisite course and its industry such as hybrid, avionics, unmanned aerial systems, collision avoidance, and light duty diesel systems;

(B) demonstrate advanced technical skills related to the corequisite course and its industry;

(C) demonstrate an understanding of the use of advanced tools and equipment; and

(D) demonstrate an understanding of research and development in the transportation industry of the corequisite course.

(3) The student develops an elevated aptitude for the essential knowledge and skills listed for the corequisite course. The student is expected to:

(A) demonstrate deeper understanding of the corequisite course;

(B) develop hands-on skills at an industry-accepted standard; and

(C) exhibit progress toward achieving industry-recognized documentation of specific expertise in a transportation field or skill.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 20, 2024.

TRD-202403828

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: September 9, 2024
Proposal publication date: March 1, 2024
For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 134. LICENSING, REGISTRATION, AND CERTIFICATION FOR SURVEYORS

SUBCHAPTER D. EDUCATION

22 TAC §134.31

The Texas Board of Professional Engineers and Land Surveyors (Board) adopts amendments to 22 Texas Administrative Code, Chapter 134, regarding the licensing of registered professional land surveyors, and specifically §134.31, relating to Educational Requirements for Applicants. Amendments to 22 Texas Administrative Code §134.31 are adopted without changes to the proposed text as published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4887) and will not be republished.

REASONED JUSTIFICATION FOR RULE ADOPTION

The adopted amendments to §134.31 to update the educational requirements for certain applicants for a surveyor-in-training certificate and all applicants to become a registered professional land surveyor. The Professional Land Surveying Practices Act requires applicants for a surveyor-in-training certificate that hold an associate degree or bachelor's degree in anything other than surveying to have, in a combination acceptable to the board, at least 32 hours of formal education in one of seven categories: civil engineering, land surveying, mathematics, photogrammetry, forestry, land law, and physical sciences. After review and consultation with the surveying community, the Board has determined updates in the acceptable combination of 32 hours of formal education is warranted. Land surveying is unquestionably a highly technical field that requires registrants that practice this field have a minimum competency to offer land surveying services to the people of Texas.

To ensure applicants education best prepares them to be competent registered professional land surveyors, the Board proposes to require applicants have at least nine hours of education in land surveying, at least three hours of education in land law, and at least six hours of education in mathematics. The remaining 14 hours of required education can be of any combination of the seven categories found in the Professional Land Surveying Practices Act. Additionally, the proposed rules establish definitions for the seven educational categories found in the Professional Land Surveying Practices Act to provide additional clarification to applicants.

To not adversely impact current students or people already in the process of becoming licensed, the proposed updates will apply to anyone who has not already applied for a surveyor-in-training certificate as of January 1, 2026.

PUBLIC COMMENT

Pursuant to §2001.029 of the Texas Government Code, the Board gave all interested persons a reasonable opportunity to provide oral and/or written commentary concerning the adoption of the rules. The public comment period began on July 5, 2024, and ended August 4, 2024. The Board received no comments from the public.

STATUTORY AUTHORITY

The amendments are adopted pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Texas Engineering Practice Act and the Professional Land Surveying Practices as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 25, 2024.

TRD-202403914
Lance Kinney
Executive Director
Texas Board of Professional Engineers and Land Surveyors
Effective date: September 14, 2024
Proposal publication date: July 5, 2024
For further information, please call: (512) 440-7723

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PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

CHAPTER 153. RULES RELATING TO PROVISIONS OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT

22 TAC §153.241

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.241, Sanctions Guidelines.

The amendments are adopted without changes to the proposed text as published in the May 31, 2024, issue of the *Texas Register* (49 TexReg 3896) and will not be republished.

The amendments to §153.241 add additional factors that may be considered in determining the disposition of a formal complaint, specifically whether an appraisal or conduct at issue was investigated by another governmental agency and the likelihood of the same or similar conduct occurring again. Additionally, the amendments allow for greater flexibility in sanctions for First Time Discipline, Level 2 violations of the Act or Statute.

No comments were received regarding adoption of the amendments.

The amendments are adopted 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 and §1103.154, which authorizes TALCB to adopt rules relating to professional conduct.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403899
Kathleen Santos
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: September 12, 2024
Proposal publication date: May 31, 2024
For further information, please call: (512) 936-3088

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PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 533. PRACTICE AND PROCEDURE SUBCHAPTER B. GENERAL PROVISIONS RELATING TO PRACTICE AND PROCEDURE

22 TAC §533.8

The Texas Real Estate Commission (TREC) adopts an amendment to 22 TAC §533.8, Motions for Rehearing, in Chapter 533, Practice and Procedure, without changes to the text as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4007), and will not be republished.

The amendment to this section is made as a result of the Commission's quadrennial rule review. The amendment corrects a typographical error in subsection (h) of the rule--changing the word "supersedes" to "supersedeas."

No comments were received on the proposed amendment as published.

The amendment is adopted 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 agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403884
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3057

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CHAPTER 534. GENERAL ADMINISTRATION

22 TAC §534.4, §534.7

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §534.4, Historically Underutilized Businesses Program, and §534.7, Vendor Protest Procedures, in Chapter 534, General Administration, without changes, as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4008), and will not be republished.

The amendments are made as a result of the Commission's quadrennial rule review. The amendments correct references to applicable regulations in the Texas Administrative Code.

No comments were received on the amendments as published.

The amendments are adopted under §1101.151, Occupations Code, 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 to 22 TAC §534.4 is also adopted under §2161.003, Government Code, which requires the agency to adopt such a rule.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403885
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3057

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CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER F. REQUIREMENTS FOR EDUCATION PROVIDERS, COURSES AND INSTRUCTORS FOR QUALIFYING EDUCATION

22 TAC §535.64

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.64, Content Requirements for Qualifying Real Estate Courses, in Chapter 535, General Provisions, without changes, as proposed in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4009), and will not be republished.

The amendments reflect changes to the course approval forms incorporated by reference in subsections (a)(1) - (3) of the rule related to the Principles of Real Estate I, Principles of Real Estate II, and Law of Agency courses. These course approval form revisions were recommended by the Education Standards Advisory Committee (ESAC). These changes reorder and remove content from the course approval forms to ensure relevancy and that course objectives are being met.

Two comments were received (from one commenter) on the rule as published. The commenter raised concerns about the changes to the course approval forms adopted by reference for Principles of Real Estate I and II. In particular, the commenter noted and ESAC discussed concerns about the changes and reduction of time in the math section of the course outline for Principles of Real Estate II. ESAC declined to make any changes, ultimately concluding that the outlines, including the order and content of the topics, were well thought out by the working group and that much of the concepts taught in real estate math would be tied to real estate financing, which is a separate topic in the Principles of Real Estate II outline, with 275 minutes specifically dedicated to it.

After reviewing the comment and the recommendation by ESAC, the Commission also declined to make any changes for the reasons cited above.

The amendments are adopted under §1101.151, Texas Occupations Code, 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, as well as §1101.003, Texas Occupations Code, which allows the Commission to prescribe by rule the content of the qualifying real estate courses listed in this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403887
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3057

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SUBCHAPTER L. INACTIVE LICENSE STATUS

22 TAC §§535.121, 535.123, 535.124

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.121, Inactive Sales Agent License; §535.123, Inactive Broker Status; and new §535.124, Death of a Designated Broker, in Chapter 535, General Provisions, without changes, as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4010), and will not be republished.

Under Chapter 1101, Occupations Code (the Act) and Commission rules, in order for a business entity to obtain a broker's license, the entity must name a designated broker that: (i) holds an active broker's license in good standing with the Commission; and (ii) has managing authority for the business entity (*e.g.*, a corporate officer, an LLC manager, an LLC member with managing authority, or a general partner). Under current Commission rules, when a designated broker for a business entity dies, the business entity license becomes inactive, as does any sponsored sales agent's license. This means that neither the entity nor the sales agent will be able to perform any real estate services that require a license, even if in the middle of a transaction. To return to active status, the entity needs to designate a new broker, who must satisfy the legal requirements referenced

above. Even if the entity has a succession plan in place, this transition period can take time and leave consumers in the middle of transactions without representation.

Under the amendments and new rule, the business entity and sponsored sales agents will be given a "safe harbor" or grace period of 14 days from the broker's death before their licenses inactivate. This will provide the entity with time to name a new designated broker that satisfies the statutory requirements under the Act prior to going inactive. The changes also remove the word "immediately" from §535.121 and §535.123. Through these changes, the rule better aligns with current agency practice and provides better guidance in the event the designated broker of a licensed business entity dies.

Ninety-four comments were received on the proposed amendments and new rule as published, which the Commission's Executive Committee reviewed. Sixty-nine of those comments were in support of the proposed changes.

Fifteen commenters want a named successor on file with TREC or a required succession plan. The Executive Committee noted that even if the Commission were to implement something like this, because the Act requires the designated broker to be in good standing and to have managing authority, agency staff would still need to determine whether the named successor broker was still qualified at the time of the designated broker's death, which would not place the entity, sponsored sales agents, or consumers in any better position than under the proposed changes. The Executive Committee also expressed concern about changes in situation, relationships, or business structure that might occur between the naming of the successor and the time of death (*e.g.*, the person is no longer affiliated with the entity, the person is also deceased, etc.). The Committee stressed that, from the Commission's perspective (and authority) this issue is less about having a replacement designated broker ready at the time of death and more about allowing sufficient time to process the change without licenses becoming inactive and transactions stalling. The Committee reiterated however the importance of succession planning, even if such planning is outside the jurisdiction of the Commission.

Fourteen commenters wanted a longer safe harbor period, with most requesting 30 days instead of 14 days. One commenter wanted less time than 14 days, but did not specify an amount. The Executive Committee noted that the current turnaround time for agency staff to process a change in designated broker is three to five business days and that agency staff expedites the processing of these changes when notified of a death. The Committee also noted that the Commission considered the number of days to suggest as the safe harbor and arrived at 14 days after balancing giving the entity enough time to notify the agency with how much time a sales agent and entity is without a designated broker.

Four commenters had concerns about allowing a sales agent to have an active license for up to 14 days without a designated broker for the entity. The Committee stated that while this is a risk of any safe harbor period, the benefit and consumer protection outweighed any potential harm.

Several commenters wanted the safe harbor to be expanded to cover additional situations. Three commenters wanted these changes to be expanded to a broker who is incapacitated. The Committee noted that the rule has never addressed this scenario and expressed concerns regarding how incapacity would be demonstrated by the broker or determined by the agency. Similarly, two commenters wanted to expand the safe harbor to a broker who goes inactive. The Committee stated that this scenario does not have the same policy concerns as often a broker who goes inactive has planned to do so. Finally, one commenter wanted the safe harbor to be expanded to individual brokers who may or may not sponsor agents. The Committee noted that the situation is different for an individual broker. If an individual broker who sponsors sales agents passes away, any sponsored sales agent will be required to find a new broker, which they can quickly do by utilizing TREC's online Relationship Management Tool. In contrast, in the case of a designated broker, because the business entity still exists, then in most cases, the sponsored sales agents are not going to want to find a new broker (and would not need to if a new designated broker is named). If an individual broker passes away and does not sponsor agents, then there will not be any inactive sales agent unable to assist consumers in transactions (and although not a Commission issue, any representation agreements in place may terminate anyway).

Two commenters requested the Commission provide more education on succession planning, and the Committee noted that this topic will be included in the new Broker Responsibility Course.

One commenter asked whether a sole proprietor could name currently name a successor with TREC. The Committee said no, but that this could be accomplished by business planning (separate from the Commission's jurisdiction).

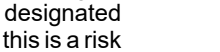
After reviewing and considering the comments, the Executive Committee declined to make changes to the rules as published. Similarly, after review and consideration of the comments, the Commission declined to make changes to the rules as published for the reasons cited above.

The amendments and new rule are adopted 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 agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403890
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3057



SUBCHAPTER R. REAL ESTATE INSPECTORS

22 TAC §535.209, §535.213

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.209, Examinations, and §535.213, Qualifying Real Estate Inspector Instructors and Courses, in Chapter 535, General Provisions, without changes, as published

in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4012) and will not be republished.

The amendments--which primarily rearrange existing requirements--are being adopted to clarify that the Texas Practicum is an experience requirement (categorized by statute as field work) and is separate and apart from an educational course. Education providers can still offer the Texas Practicum, but will no longer need to submit a course application for the Texas Practicum or issue course completion certificates to students. Instead, students will submit the credit request form to the agency to obtain credit.

The Texas Real Estate Inspector Committee (TREIC) recommended the amendments.

Two comments were received and were reviewed by TREIC.

One commenter expressed concern that the changes are inconsistent with applicable law, the Sunset Advisory Commission's 2019 report, antitrust standards, and that the changes as proposed create a barrier to entry by not allowing the Practicum to be taught by video.

TREIC discussed with agency staff and general counsel and does not share the same concerns. Additionally, with regard to the concern raised that the changes create a barrier to entry, TREIC believes this will have the opposite effect because this will result in a cost-savings for education providers offering the Practicum and potentially to students since providers won't be required to have the Practicum approved by the Commission (which comes with associated fees that are often passed down to students). Furthermore, the only time the Commission allowed for a video or virtual component to the Practicum was during COVID. This temporary allowance ended in August 2022.

Another commenter appeared to be in support of keeping the Practicum as a course. However, for the reasons stated above, TREIC declined to make any further changes.

After reviewing the comments and the recommendation by TREIC, the Commission also declined to make any changes for the reasons cited above.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted under Texas Occupations Code, §1102.111, which requires the agency, by rule, to provide for substitution of relevant experience in place of certain licensing requirements and limits the number of hours of field work.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403892
Vanessa E. Burgess
General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3284

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22 TAC §535.214

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §535.214, Education and Experience Requirements for a License, in Chapter 535, General Provisions, with changes, as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4012), and will be republished. Changes to subsection (h)(1)(b)(i) include the addition of a clarifying statement that the required inspections also must include preparation of inspection reports by the applicant.

The amendments-which primarily rearrange existing requirements-clarify that the Texas Practicum is an experience requirement (categorized by statute as field work) and is separate and apart from an educational course. Education providers can still offer the Texas Practicum, but will no longer need to submit a course application for the Texas Practicum or issue course completion certificates to students. Instead, students will submit the credit request form to the agency to obtain credit.

The Texas Real Estate Inspector Committee recommended the amendments, including the addition of the clarifying statement described above.

Two comments were received and were reviewed by TREIC.

One commenter expressed concern that the changes are inconsistent with applicable law, the Sunset Advisory Commission's 2019 report, antitrust standards, and that the changes as proposed create a barrier to entry by not allowing the Practicum to be taught by video.

TREIC discussed with agency staff and general counsel and does not share the same concerns. Additionally, with regard to the concern raised that the changes create a barrier to entry, TREIC believes this will have the opposite effect because this will result in a cost-savings for education providers offering the Practicum and potentially to students since providers won't be required to have the Practicum approved by the Commission (which comes with associated fees that are often passed down to students). Furthermore, the only time the Commission allowed for a video or virtual component to the Practicum was during COVID. This temporary allowance ended in August 2022.

Another commenter appeared to be in support of keeping the Practicum as a course. However, for the reasons stated above, TREIC declined to make any further changes as a result of these comments.

After reviewing the comments and the recommendation by TREIC, the Commission also declined to make any changes as a result of these comments for the reasons cited above.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102. The amendments are also adopted under Texas Occupations Code, §1102.111, which requires the agency, by rule, to provide for substitution of relevant experience in place of certain licensing requirements and limits the number of hours of field work.

§535.214. Education and Experience Requirements for a License.

(a) Sponsored Experience and Education Requirements for a Real Estate Inspector License. To become licensed as a real estate inspector a person must:

(1) satisfy the 90-hour education requirement for licensure by completing the following coursework:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours; and

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(2) have been licensed as an apprentice inspector on active status for a total of at least three months within the 12 month period before the filing of the application;

(3) complete 25 inspections; and

(4) pass the licensure examinations set out in §535.209 of this subchapter (relating to Examinations).

(b) Sponsored Experience and Education Requirements for a Professional Inspector License. To become licensed as a professional inspector, a person must:

(1) satisfy the 134-hour education requirement for licensure by completing the following coursework:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(D) Texas Law Module, total 20 hours; and

(E) Texas Standards of Practice Module, total 24 hours;

(2) have been licensed as a real estate inspector on active status for a total of at least 12 months within the 24 month period before the filing of the application;

(3) complete 175 inspections; and

(4) pass the licensure examinations set out in §535.209 of this subchapter.

(c) Sponsored Experience Criteria. To meet the experience requirements for licensure under subsections (a) or (b) of this section, or to sponsor apprentice inspectors or real estate inspectors:

(1) the Commission considers an improvement to real property to be any unit capable of being separately rented, leased or sold; and

(2) an inspection of an improvement to real property that includes the structural and equipment/systems of the unit constitutes a single inspection.

(d) Substitute Experience and Education Requirements for a Real Estate Inspector License. As an alternative to subsection (a) of this section, to become a licensed real estate inspector, a person must:

(1) complete a total of 114 hours of qualifying inspection coursework, which must include the following:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours; and

(D) Texas Standards of Practice Module, total 24 hours; and

(2) complete the Texas Practicum, as defined by subsection (h) of this section; and

(3) pass the licensure examinations set out in §535.209 of this subchapter; and

(4) be sponsored by a professional inspector.

(e) Substitute Experience and Education Requirements for a Professional Inspector License. As an alternative to subsection (b) of this section, to become a licensed professional inspector, a person must:

(1) complete a total of 154 hours of qualifying inspection coursework, which must include the following:

(A) Property and Building Inspection Module I, total 40 hours;

(B) Property and Building Inspection Module II, total 40 hours;

(C) Business Operations and Professional Responsibilities Module, total 10 hours;

(D) Analysis of Findings and Reporting Module, total 20 hours;

(E) Texas Law Module, total 20 hours;

(F) Texas Standards of Practice Module, total 24 hours; and

(2) complete the Texas Practicum as defined by subsection (h) of this section; and

(3) pass the licensure examinations set out in §535.209 of this subchapter.

(f) Courses completed for a real estate inspector license under this section shall count towards the identical qualifying inspection coursework for licensure as a professional inspector.

(g) Experience Credit. The Commission may award credit for education required under subsections (d) and (e) of this section to an applicant who:

(1) has three years of experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real property; and

(2) provides to the Commission two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.

(h) Texas Practicum.

(1) To receive credit for completion, the Texas Practicum must:

(A) be supervised by a licensed inspector who has:

(i) been actively licensed as a professional inspector for at least five years; and

(ii) at least three years of supervisory or training experience with inspectors; or

(iii) performed a minimum of 200 real estate inspections as a Texas professional inspector;

(B) consist of:

(i) a minimum of five complete and in-person inspections, totaling 40 hours, including the preparation by the applicant of a written inspection report for each completed inspection; and

(ii) no more than four students per supervising inspector; and

(C) include a review of each inspection report prepared by the applicant in which the supervising inspector must find that each report:

(i) is considered satisfactory for release to an average consumer; and

(ii) demonstrates an understanding of:

(I) report writing;

(II) client interaction;

(III) personal property protection; and

(IV) concepts critical for the positive outcome of the inspection process.

(2) An applicant may request credit for completing the Texas Practicum by submitting to the Commission the credit request form approved by the Commission.

(3) Audits.

(A) The Commission staff may conduct an audit of any information provided on the credit request form, including verifying that the supervising inspector meets the qualifications in paragraph (1)(A) of this subsection.

(B) The following acts committed by a supervising inspector conducting the Texas Practicum are grounds for disciplinary action:

(i) making material misrepresentation of fact;

(ii) making a false representation to the Commission, either intentionally or negligently, that an applicant completed the Texas Practicum in its entirety, satisfying all requirements for credit.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403893
Vanessa E. Burgess
General Counsel
Texas Real Estate Commission
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 936-3284

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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 701. POLICIES AND PROCEDURES

25 TAC §701.11

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts the amendment to 25 Texas Administrative Code §701.11 without changes to the proposed amendment as published in the May 31, 2024, issue of the *Texas Register* (49 TexReg 3904); therefore, the rule will not be republished.

Reasoned Justification

Texas Health & Safety Code Chapter 102 charges CPRIT with the responsibility of facilitating the development of the Texas Cancer Plan, which aims to reduce the cancer burden across the state to improve the lives of Texans. CPRIT plans to present the next version of the Texas Cancer Plan as a fully online, dynamic resource available to the public. The proposed amendment removes the requirement that CPRIT provide a hard copy of the Texas Cancer Plan.

Summary of Public Comments and Staff Recommendation

CPRIT received one public comment from Heather Becker at The University of Texas at Austin School of Nursing noting the importance of "having a limited number of print copies available to the public" and explaining that some people may prefer not to read the *Texas Cancer Plan* online. While CPRIT appreciates this perspective, the agency considers that the benefits of providing the 2024 Texas Cancer Plan in a web-based format (e.g., interactive content, multimedia integration, accessibility, hyperlinking, shareability, search functionality) outweigh the likelihood that a person wanting to read the Texas Cancer Plan will be unable or unwilling to access the content in any format other than as a physical copy. To date, CPRIT has not received a request for a physical copy of the current or previous editions of the Texas Cancer Plan. For these reasons, CPRIT declines to change the amendment to Section 701.11(5) as originally published on May 31.

The amendment is adopted under the authority of the Texas Health and Safety Code Annotated, § 102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403896
Heidi McConnell
Deputy Executive Officer / Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Effective date: September 12, 2024
Proposal publication date: May 31, 2024
For further information, please call: (512) 463-3190

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TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts amendments to §553.17, concerning Criteria for Licensing; §553.255, concerning All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder; §553.257, concerning Human Resources; and §553.329, concerning HHSC Investigation of Allegations of Abuse, Neglect, or Exploitation; and new §553.254, concerning Training Requirements for Staff Providing Personal Care Services to a Resident With Alzheimer's Disease or Related Disorder in a Facility that is Not an Alzheimer's Certified Facility.

The amendments to §553.255 and §553.257 are adopted without changes to the proposed text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2944). These rules will not be republished.

The amendments to §553.17 and §553.329, and new §553.254, are adopted with changes to the proposed text as published in the May 3, 2024, issue of the *Texas Register* (49 TexReg 2944). These rules will be republished.

BACKGROUND AND JUSTIFICATION

The purpose of the amended and new rules is to implement House Bill (H.B.) 1009, H.B. 1673, and H.B. 4696 from the 88th Legislature, Regular Session, 2023. H.B. 1009 requires a facility to suspend an employee who HHSC has determined has engaged in reportable conduct during any applicable appeals process. H.B. 1673 requires facilities that are not Alzheimer's certified to nevertheless ensure all staff complete training specific to Alzheimer's disease and related disorders. H.B. 4696 allows HHSC to conduct an offsite survey unless the investigation is for alleged abuse or neglect. The proposal also clarifies that an accreditation commission is able to conduct a life safety code survey of a facility based on the requirements in Subchapter D of Chapter 553, Facility Construction.

COMMENTS

The 31-day comment period ended June 3, 2024.

During this period, HHSC received seven comments regarding the proposed rules from two commenters: the Legislative Director for State Senator Royce West and Vice President of Public Policy Texas Assisted Living Association (TALA). A summary of comments relating to the rules and HHSC's responses follows.

Comment: One commentor questioned the meaning of "administrative support services" in §553.254(b)(1)(F).

Response: "Administrative support services" was the phrase used in H.B. 1673 (current Texas Health and Safety Code §247.0291). Because this phrase is used to describe training required of assisted living facility managers, HHSC interprets it to refer to training related to facility management (as opposed to direct care staff).

Comment: One commentor suggested hyphenating "medically appropriate" in §553.254(b)(1)(F)(iii).

Response: HHSC declines to make the suggested change. Language in this rule is taken directly from the bill and is grammatically correct.

Comment: One commentor requested that the rule require that the facility be informed of an employee's reportable conduct determination in §553.257(b)(8).

Response: HHSC declines to make this change. Existing HHSC employee misconduct registry (EMR) notification processes already include notifying the facility where the individual was employed at the time the reportable conduct occurred.

Comment: One commenter suggested that §553.257(b)(8)(B) expressly state that, if at the end of the appeals process, the hearings examiner concludes that reportable conduct "did not" happen, the facility should be allowed to reinstate an employee's employment. The commenter submitted suggested language to describe when a facility may reinstate employment.

Response: HHSC declines to make the suggested change. The rule reflects the language used in H.B. 1009 (current Texas Health and Safety Code §253.0025) and §253.004 and §253.005.

Comment: One commenter suggested striking §553.257(b)(9), arguing that HHSC--not the facility--makes the referral to the EMR.

Response: HHSC declines to make the suggested change as this provision defines a term used in the section and does not impose a duty on facilities.

Comment: One commenter suggested that the rule use "shall, may, or must" rather than "seeks" in §553.329(e) related to on-site investigations.

Response: HHSC agrees with the commenter's suggested language in part and edited the rule language using "may seek."

Comment: One commenter recommended changing the phrase in §553.329(e) from "HHSC seeks a probate or county court order for admission" to "HHSC seeks a court order for admission from a county, probate, or state district court."

Response: HHSC agrees with the commenter's suggested language and edited the wording for clarity. HHSC added the option for a peace officer to accompany the HHSC investigator.

HHSC made punctuation and grammar edits in §553.17 and §553.254.

SUBCHAPTER B. LICENSING

26 TAC §553.17

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rule-making authority; and Texas Health and Safety Code §247.025 and §247.026, which provide that the Executive Commissioner of HHSC shall adopt rules necessary to implement Chapter 247 and ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

§553.17. Criteria for Licensing.

(a) A person must be licensed to establish or operate an assisted living facility in Texas.

(1) HHSC considers one or more facilities to be part of the same establishment and, therefore, subject to licensure as an assisted living facility, based on the following factors:

(A) common ownership;

(B) physical proximity;

(C) shared services, personnel, or equipment in any part of the facilities' operations; and

(D) any public appearance of joint operations or of a relationship between the facilities.

(2) The presence or absence of any one factor in paragraph (1) of this subsection is not conclusive.

(b) To obtain a license, a person must follow the application requirements in this subchapter and meet the criteria for a license.

(c) An applicant must affirmatively show that the applicant, license holder, controlling person, and any person required to submit background and qualification information meet the criteria and eligibility for licensing, in accordance with this section; and

(1) the building in which the facility is housed:

(A) meets local fire ordinances;

(B) is approved by the local fire authority;

(C) meets HHSC licensing standards in accordance with Subchapter D of this chapter (relating to Facility Construction) based on an on-site inspection by HHSC or the standards for accreditation based on an on-site accreditation survey by an accreditation commission; and

(D) if located in a county of more than 3.3 million residents for initial license applications submitted or issued on or after December 6, 2022, is not located in a 100-year floodplain; and

(2) operation of the facility meets HHSC licensing standards based on an on-site health inspection by HHSC, which must include observation of the care of a resident; or

(3) the facility meets the standards for accreditation based on an on-site accreditation survey by the accreditation commission.

(d) An applicant who chooses the option authorized in subsection (c)(3) of this section must contact HHSC to determine which accreditation commissions are available to meet the requirements of that subsection. If a license holder uses an on-site accreditation survey by an accreditation commission, as provided in this subsection and §553.33(i) of this subchapter (relating to Renewal Procedures and Qualifications), the license holder must:

(1) provide written notification to HHSC by submitting an updated application in the licensing system within five working days after the license holder receives a notice of change in accreditation status from the accreditation commission; and

(2) include a copy of the notice of change with its written notification to HHSC.

(e) HHSC issues a license to a facility meeting all requirements of this chapter. The facility must not exceed the maximum allowable number of residents specified on the license.

(f) HHSC denies an application for an initial license or a renewal of a license if:

(1) the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been debarred or excluded from the Medicare or Medicaid programs by the federal government or a state;

(2) a court has issued an injunction prohibiting the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure from operating a facility; or

(3) during the five years preceding the date of the application, a license to operate a health care facility, long-term care facility, assisted living facility, or similar facility in any state held by the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been revoked.

(g) A license holder or controlling person who operates a nursing facility or an assisted living facility for which a trustee was appointed and for which emergency assistance funds, other than funds to pay the expenses of the trustee, were used is subject to exclusion from eligibility for:

(1) the issuance of an initial license for a facility for which the person has not previously held a license; and

(2) the renewal of the license of the facility for which the trustee was appointed.

(h) HHSC may deny an application for an initial license or refuse to renew a license if an applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure:

(1) violates Texas Health and Safety Code, Chapter 247; a section, standard, or order adopted under Chapter 247; or a license issued under Chapter 247 in either a repeated or substantial manner;

(2) commits an act described in §553.751(a)(2) - (9) of this chapter (relating to Administrative Penalties);

(3) aids, abets, or permits a substantial violation described in paragraph (1) or (2) of this subsection about which the person had or should have had knowledge;

(4) fails to provide the required information, facts, or references;

(5) engages in the following:

(A) knowingly submits false or intentionally misleading statements to HHSC;

(B) uses subterfuge or other evasive means of filing an application for licensure;

(C) engages in subterfuge or other evasive means of filing on behalf of another who is unqualified for licensure;

(D) knowingly conceals a material fact related to licensure; or

(E) is responsible for fraud;

(6) fails to pay the following fees, taxes, and assessments when due:

(A) license fees, as described in §553.47 of this subchapter (relating to License Fees); or

(B) franchise taxes, if applicable;

(7) during the five years preceding the date of the application, has a history in any state or other jurisdiction of any of the following:

(A) operation of a facility that has been decertified or has had its contract canceled under the Medicare or Medicaid program;

(B) federal or state long-term care facility, assisted living facility, or similar facility sanctions or penalties, including monetary penalties, involuntary downgrading of the status of a facility license, proposals to decertify, directed plans of correction, or the denial of payment for new Medicaid admissions;

(C) unsatisfied final judgments, excluding judgments wholly unrelated to the provision of care rendered in long-term care facilities;

(D) eviction involving any property or space used as a facility; or

(E) suspension of a license to operate a health care facility, long-term care facility, assisted living facility, or a similar facility;

(8) violates Texas Health and Safety Code §247.021 by operating a facility without a license; or

(9) is subject to denial or refusal as described in Chapter 560 of this title (relating to Denial or Refusal of License) during the time frames described in that chapter.

(i) Without limitation, HHSC reviews all information provided by an applicant, a license holder, a person required to be disclosed on the application for licensure, or a manager when considering grounds for denial of an initial license application or a renewal application in accordance with subsection (h) of this section. HHSC may grant a license if HHSC finds the applicant, license holder, person required to be disclosed on the application for licensure, affiliate, or manager is able to comply with the rules in this chapter.

(j) HHSC reviews final actions when considering the grounds for denial of an initial license application or renewal application in accordance with subsections (f) and (h) of this section. An action is final when routine administrative and judicial remedies are exhausted. An applicant must disclose all actions, whether pending or final.

(k) If an applicant owns multiple facilities, HHSC examines the overall record of compliance in all of the applicant's facilities. An overall record poor enough to deny issuance of a new license does not preclude the renewal of a license of a facility with a satisfactory record.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403909
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 12, 2024
Proposal publication date: May 3, 2024
For further information, please call: (512) 438-3161

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SUBCHAPTER E. STANDARDS FOR LICENSURE

26 TAC §§553.254, 553.255, 553.257

STATUTORY AUTHORITY

The amendments and new section are adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rule-making authority; and Texas Health and Safety Code §247.025 and §247.026, which provide that the Executive Commissioner of HHSC shall adopt rules necessary to implement Chapter 247 and ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

§553.254. Training Requirements for Staff Providing Personal Care Services to a Resident With Alzheimer's Disease or a Related Disorder in a Facility that is Not an Alzheimer's Certified Facility.

(a) A facility that provides personal care services to a resident with Alzheimer's disease or a related disorder that is not an Alzheimer's certified facility must require a staff member to complete competency-based training and annual continuing education on Alzheimer's disease and related disorders in accordance with this section.

(1) The training required in this section may be included as part of the initial training and continuing education required in §553.253 of this subchapter (relating to Employee Qualifications and Training).

(2) The training required in this section may satisfy the training required by facility policy under §553.255 of this subchapter (relating to All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder).

(b) A facility must require a manager to:

(1) complete four hours of training and pass a competency-based evaluation on:

(A) Alzheimer's disease and related disorders;

(B) provision of person-centered care;

(C) assessment and care planning;

(D) activities of daily living for a resident with Alzheimer's disease or a related disorder;

(E) common behaviors and communications associated with residents with Alzheimer's disease or related disorders;

(F) administrative support services related to information for:

(i) comorbidities management;

(ii) care planning;

(iii) provision of medically appropriate education and support services and resources in the community; and

(iv) including person-centered care to residents with Alzheimer's disease or related disorders and the resident's family;

(G) staffing requirements that will:

(i) facilitate collaboration and cooperation among facility staff members; and

(ii) ensure each staff member obtains appropriate informational materials and training to properly care for and interact with a resident with Alzheimer's disease or a related disorder based on the staff member's position;

(H) establishing a supportive and therapeutic environment for residents with Alzheimer's disease or related disorders to enhance the sense of community among the residents and within the facility; and

(I) transitioning care and coordination of services for residents with Alzheimer's disease or related disorders; and

(2) after the date of successfully completing the training and competency-based evaluation required in paragraph (1) of this subsection, complete two hours of annual continuing education on best practices related to treatment and provision of care to residents with Alzheimer's disease or related disorders.

(c) A facility must require a staff member who provides personal care services to:

(1) complete four hours of training and pass a competency-based evaluation on:

(A) Alzheimer's disease and related disorders;

(B) provision of person-centered care;

(C) assessment and care planning;

(D) activities of daily living for a resident with Alzheimer's disease or a related disorder; and

(E) common behaviors and communications associated with a resident with Alzheimer's disease and related disorders;

(2) complete the requirements in paragraph (1) of this subsection prior to performing personal care services; and

(3) after successfully completing the training and competency-based evaluation required in paragraph (1) of this subsection, complete two hours of continuing education that includes best practices related to the treatment of and provision of care to residents with Alzheimer's disease or related disorders.

(d) A facility must require each staff member who is not a direct service staff member, including housekeeping staff, front desk staff, maintenance staff, and other staff members with incidental but recurring contact with a resident with Alzheimer's disease or a related disorder, to complete training and pass a competency-based evaluation on:

(1) Alzheimer's disease and related disorders;

(2) provision of person-centered care; and

(3) common behaviors and communications associated with a resident with Alzheimer's disease and related disorders.

(e) A facility must:

(1) provide the training completion certificate to the staff member, including the manager; and

(2) maintain records of each certificate for all staff, including the manager, in accordance with the facility's records retention policies.

(f) A facility staff member who successfully completes the training required by this section, passes the evaluation, and then transfers employment to another facility is not required to satisfy these requirements for the new facility if there is less than a two-year lapse of employment with a facility.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403910
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 12, 2024
Proposal publication date: May 3, 2024
For further information, please call: (512) 438-3161

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SUBCHAPTER G. INSPECTIONS, INVESTIGATIONS, AND INFORMAL DISPUTE RESOLUTION

26 TAC §553.329

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rule-making authority; and Texas Health and Safety Code §247.025 and §247.026, which provide that the Executive Commissioner of HHSC shall adopt rules necessary to implement Chapter 247 and ensure the quality of care and protection of assisted living facility residents' health and safety, respectively.

§553.329. HHSC Investigation of Allegations of Abuse, Neglect, or Exploitation.

(a) In accordance with the memorandum of understanding (relating to Memorandum of Understanding Concerning Protective Services for the Elderly), between HHSC and the Texas Department of Family and Protective Services (DFPS), HHSC receives and investigates reports of abuse, neglect, and exploitation of elderly and disabled persons or other residents living in facilities licensed under this chapter.

(b) HHSC only investigates complaints of abuse, neglect, or exploitation when:

(1) the act occurs in the facility;

(2) the facility is responsible for the supervision of the resident at the time the act occurs; or

(3) the alleged perpetrator is affiliated with the facility.

(c) HHSC refers all other complaints of abuse, neglect, or exploitation not meeting subsection (b) of this section to DFPS.

(d) HHSC must make an on-site visit to a facility to investigate complaints of abuse or neglect and all complaints involving unemancipated minors who have been inappropriately placed in the facility. During such on-site visits, HHSC must consult with persons thought to have knowledge of the circumstances. HHSC may make an on-site visit to a facility to investigate all other types of complaints.

(e) If a facility fails to admit HHSC staff for an on-site investigation, HHSC may seek a court order for admission from a county, probate, or state district court. An HHSC investigator may ask the court to have a peace officer accompany them.

(f) In cases concluded to be physical abuse, HHSC submits the written report of the HHSC investigation to the appropriate law enforcement agency.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 23, 2024.

TRD-202403911
Karen Ray
Chief Counsel
Health and Human Services Commission
Effective date: September 12, 2024
Proposal publication date: May 3, 2024
For further information, please call: (512) 438-3161

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION

DIVISION 4. CONSUMER ASSISTANCE; CLAIM PROCESSES

28 TAC §5.4215, §5.4233

The commissioner of insurance adopts amendments to 28 TAC §5.4215 and §5.4233, concerning updates to umpire and mediator roster application forms. The amendments are adopted without changes to the proposed text published in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4416). The sections will not be republished.

REASONED JUSTIFICATION. The amended sections are necessary to add requirements related to applicants' consent to publish confidential information, and to state whether umpires are insured by the Texas Windstorm Insurance Association (TWIA). Senate Bill 510 added Government Code §552.11765, which created new categories of confidential information for state agencies. Section 5.4215 provides requirements for the appraisal umpire roster that TDI maintains for TWIA claims. That section specifies the information that umpire applicants must provide to register with TDI. Section 5.4233 does the same for the mediator roster.

SUMMARY OF COMMENTS. TDI provided an opportunity for public comment on the rule proposal for a period that ended on July 15, 2024. TDI did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. The commissioner adopts the amendments to §5.4215 and §5.4233 under Insurance Code §§2210.008, 2210.575, 2210.580 and 36.001.

Insurance Code §2210.008 provides that the commissioner may adopt rules as reasonable and necessary to implement Insurance Code Chapter 2210.

Insurance Code §2210.575 requires the commissioner to establish rules for alternative dispute resolution for disputes concerning denied coverage.

Insurance Code §2210.580 provides that the commissioner must adopt rules regarding the qualifications and selection of appraisers for the appraisal process and the qualifications and selection of mediators.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 20, 2024.

TRD-202403825
Jessica Barta
General Counsel
Texas Department of Insurance
Effective date: September 9, 2024
Proposal publication date: June 14, 2024
For further information, please call: (512) 676-6555

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY HANDGUNS

SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

37 TAC §§6.12, 6.14, 6.18

The Texas Department of Public Safety (the department) adopts amendments to §§6.12, 6.14, and 6.18, concerning Eligibility and Application Procedures for a License to Carry a Handgun. These rules are adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4741) and will not be republished.

The amendments to §6.12, concerning Fingerprints, remove the peace officer exemption for required electronic fingerprints to comply with current Federal Bureau of Investigation requirements. The amendments to §6.14, concerning Proficiency Requirements, and §6.18, concerning First Responder Certification; Renewal of Certification, make conforming language changes for consistency and remove references to form numbers to allow the department flexibility in consolidating and renumbering forms.

No comments were received regarding the adoption of these rules.

STATUTORY AUTHORITY

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Government Code, §411.1883, which authorizes the department to adopt by rule standards for the first responder training course as authorized in House Bill 1069, 87th Leg., R.S. (2021) and renumbered in House Bill 4595, 88th Leg., R.S. (2023); and Texas Government Code, §411.197, which authorizes the director to adopt rules to administer Subchapter H, License to Carry a Handgun.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403871

D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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SUBCHAPTER F. FIRST RESPONDER INSTRUCTOR CERTIFICATION

37 TAC §6.96

The Texas Department of Public Safety (the department) adopts amendments to §6.96, concerning First Responder Certification Courses. This rule is adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4742) and will not be republished.

The department adopted amendments to this rule in relation to first responder certification courses. These amendments make minor changes in terminology to maintain consistency with amendments to §§6.12, 6.14, and 6.18 elsewhere in this issue of the *Texas Register.* The amendments to §6.12, concerning Fingerprints, remove the peace officer exemption for required electronic fingerprints to comply with current Federal Bureau of Investigation requirements. The amendments to §6.14, concerning Proficiency Requirements, and §6.18, concerning First Responder Certification; Renewal of Certification, make conforming language changes for consistency and remove references to form numbers to allow the department flexibility in consolidating and renumbering forms.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Government Code, §411.1883, which authorizes the department to adopt by rule standards for the first responder training course as authorized in House Bill 1069, 87th Leg., R.S. (2021) and renumbered in House Bill 4595, 88th Leg., R.S. (2023); and Texas Government Code, §411.197, which authorizes the director to adopt rules to administer Subchapter H, License to Carry a Handgun.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403872
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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CHAPTER 15. DRIVER LICENSE RULES

SUBCHAPTER B. APPLICATION REQUIREMENTS--ORIGINAL, RENEWAL, DUPLICATE, IDENTIFICATION CERTIFICATES

37 TAC §§15.29, 15.34, 15.38

The Texas Department of Public Safety (the department) adopts amendments to §§15.29, 15.34, and 15.38, concerning Application Requirements--Original, Renewal, Duplicate, Identification Certificates. These rules are adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4743) and will not be republished.

The adopted amendments implement Senate Bill 1518, 88th Leg., R.S. (2023) and Senate Bill 1527, 88th Leg., R.S. (2023). Specifically, the amendments to §15.29 add that any driver license or identification certificate holder who is subject to the requirements of Code of Criminal Procedure, Chapter 65, Terrorist Offender Registration Program, is not eligible to renew or apply for a duplicate driver license or identification certificate by alternative methods. The amendments to §15.34 add that any driver license or identification certificate holder who is subject to the requirements of Penal Code, Chapter 20A, Trafficking of Persons, or Code of Criminal Procedure, Chapter 65, Terrorist Offender Registration Program, is only eligible to renew 60 days before expiration. The amendment to §15.38 adds that any driver license or identification certificate holder who is subject to the requirements of Penal Code, Chapter 20A, Trafficking of Persons, or Code of Criminal Procedure, Chapter 65, Terrorist Offender Registration Program, is not eligible to receive a fee exemption as a veteran.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522 of the Texas Transportation Code; and Texas Code of Criminal Procedure, Article 65.009, which authorizes the department to adopt any rule necessary to implement Chapter 65.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403873
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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37 TAC §15.42

The Texas Department of Public Safety (the department) adopts amendments to §15.42, concerning Social Security Number.

This rule is adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4745) and will not be republished.

This amendment complies with changes to the Code of Federal Regulations recently passed by the federal government. This amendment reduces the regulatory burden upon driver license and identification certificate applicants by eliminating the need to provide a document to verify Social Security Number, which is verified with the federal government electronically.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Transportation Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403875
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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SUBCHAPTER D. DRIVER IMPROVEMENT

37 TAC §15.88

The Texas Department of Public Safety (the department) adopts amendments to §15.88, concerning Demand for Surrender. This rule is adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4746) and will not be republished.

The amendment makes conforming changes necessary to implement House Bill 4528, 88th Leg., R.S. (2023), which removed the requirement that a peace officer take physical control of a person's driver's license for failing or refusing an intoxication test because the suspension may now be done electronically. The rule title has also been renamed "Demand for Surrender."

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522 of the Texas Transportation Code; Texas Transportation Code, §524.002, which authorizes the department to adopt rules necessary to administer Chapter 524 of the Texas Transportation Code; and Texas Transportation Code, §724.003, which authorizes the department to adopt rules necessary to administer Chapter 724 of the Texas Transportation Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403877
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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SUBCHAPTER G. DENIAL OF RENEWAL OF DRIVER LICENSE FOR FAILURE TO APPEAR FOR TRAFFIC VIOLATION

37 TAC §15.118

The Texas Department of Public Safety (the department) adopts amendments to §15.118, concerning Clearance Report. This rule is adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4747) and will not be republished.

This amendment modifies the reasonable time to submit a clearance report from five days to two days to accurately reflect the current terms and conditions established in the Memorandum of Understanding (MOU) between the department and courts for the Failure to Appear/Failure to Pay Program.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522 of the Texas Transportation Code; and Texas Transportation Code, §706.012, which authorizes the department to adopt rules to implement Chapter 706 of the Texas Transportation Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403880
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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CHAPTER 17. ADMINISTRATIVE LICENSE REVOCATION

SUBCHAPTER A. ADMINISTRATIVE LICENSE REVOCATION

37 TAC §§17.1 - 17.4, 17.6, 17.8, 17.11, 17.13, 17.14, 17.16

The Texas Department of Public Safety (the department) adopts amendments to §§17.1 - 17.4, 17.6, 17.8, 17.11, 17.13, 17.14, and 17.16, concerning Administrative License Revocation. These rules are adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4748) and will not be republished.

The amendments to §§17.1, 17.2, 17.8, 17.11, 17.13, and 17.16 refine administrative driver license revocation procedures and are necessitated by implementation of the electronic filing and service requirements for the State Office of Administrative Hearings related to the appeal of a driver license suspension. The rule title for §17.16 is also renamed "Service on the Department."

The amendments to §§17.3, 17.4, 17.6, and 17.14 make conforming changes necessary to implement House Bill 4528, 88th Leg., R.S. (2023), which removed the requirement that a peace officer take physical control of a person's driver's license for failing or refusing an intoxication test because the suspension may now be done electronically.

Additional changes made to §§17.2, 17.3, 17.4, and 17.13 implement House Bill 1163, 88th Leg., R.S. (2023), which created a new criminal offense for Boating While Intoxicated with a Child Passenger, by simplifying the language so that any new criminal intoxication offenses created related to a driver license suspension are included.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code; Texas Transportation Code, §522.005, which authorizes the department to adopt rules necessary to administer Chapter 522 of the Texas Transportation Code; Texas Transportation Code, §524.002, which authorizes the department to adopt rules necessary to administer Chapter 524 of the Texas Transportation Code; and Texas Transportation Code, §724.003, which authorizes the department to adopt rules necessary to administer Chapter 724 of the Texas Transportation Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403881
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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CHAPTER 35. PRIVATE SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

37 TAC §§35.5, 35.9, 35.13

The Texas Department of Public Safety (the department) adopts amendments to §§35.5, 35.9, and 35.13, concerning General Provisions. These rules are adopted without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4753) and will not be republished.

The changes to §35.5, concerning Standards of Conduct, clarify that a company license holder may not use the department's name or insignia in advertisements. The changes to §35.9, concerning Advertisements, exempt publishing the licensee's address in its advertisements when that address is a residence and clarify that business cards constitute advertisements. The changes to §35.13, concerning Drug-Free Workplace Policy, clarify that a sole proprietor must have a drug-free workplace policy.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403882
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: September 11, 2024
Proposal publication date: June 28, 2024
For further information, please call: (512) 424-5848

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PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 151. GENERAL PROVISIONS

37 TAC §151.75

The Texas Board of Criminal Justice (board) adopts amendments to §151.75, concerning Standards of Conduct for Financial Advisors and Service Providers, without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4754). The rule will not be republished.

The adopted amendments add language to specify the disclosure of a relationship or pecuniary interest by a financial advisor or service provider with minor word changes and grammatical updates made for clarity.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; §2263.004, which establishes ethics requirements for outside financial advisors or service providers; Chapter 404, which establishes the state treasury operations of the comptroller; Chapter 552, which establishes public information guidelines; and Chapter 2256; which establishes guidelines for public funds investment.

Cross Reference to Statutes: None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403938
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: September 15, 2024
Proposal publication date: June 28, 2024
For further information, please call: (936) 437-6700

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CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION SUBCHAPTER D. OTHER RULES

37 TAC §152.61

The Texas Board of Criminal Justice (board) adopts amendments to §152.61, concerning Emergency Response to Law Enforcement Agencies or Departments and Non-Agent Private Prisons or Jails, without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4756). The rule will not be republished.

The adopted amendments revise "rule" to "section" and "offender" to "inmate" throughout and make grammatical updates.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code § 492.013, which authorizes the board to adopt rules; and § 494.008, which establishes limited law enforcement powers for department employees.

Cross Reference to Statutes: None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403944
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: September 15, 2024
Proposal publication date: June 28, 2024
For further information, please call: (936) 437-6700

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CHAPTER 155. REPORTS AND INFORMATION GATHERING SUBCHAPTER B. SITE SELECTION AND FACILITY NAMES

37 TAC §155.23

The Texas Board of Criminal Justice (board) adopts amendments to §155.23, concerning Site Selection Process for the Location of Additional Facilities, without changes to the proposed text as published in the May 10, 2024, issue of the *Texas Register* (49 TexReg 3193). The rule will not be republished.

The adopted amendments revise offender to inmate throughout; remove references to transfer facilities and the Prison Management Act; and reorganize language for clarity.

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; and §496.007, which requires the board to evaluate the advantages and disadvantages of a proposed location before determination.

Cross Reference to Statutes: None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403940
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: September 15, 2024
Proposal publication date: May 10, 2024
For further information, please call: (936) 437-6700

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CHAPTER 163. COMMUNITY JUSTICE ASSISTANCE DIVISION STANDARDS

37 TAC §163.36

The Texas Board of Criminal Justice (board) adopts amendments to §163.36, concerning Supervision of Offenders with Mental Impairment, without changes to the proposed text as published in the June 28, 2024, issue of the *Texas Register* (49 Tex.Reg. 4758). The rule will not be republished.

The adopted amendments revise the spelling of "judgement" to "judgment."

No comments were received regarding the amendments.

The amendments are adopted under Texas Government Code §492.013, which authorizes the board to adopt rules; §509.003, which authorizes the board to adopt reasonable rules establishing standards and procedures for the TDCJ Community Justice Assistance Division; and Texas Health and Safety Code §614.013, which establishes requirements for continuity of care for offenders with mental impairments.

Cross Reference to Statutes: None.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403948
Stephanie Greger
General Counsel
Texas Department of Criminal Justice
Effective date: September 15, 2024
Proposal publication date: June 28, 2024
For further information, please call: (936) 437-6700

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PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 469. TECHNICAL RESCUE

The Texas Commission on Fire Protection (the Commission) adopts new chapter, 37 Texas Administrative Code Chapter 469, Technical Rescue, concerning §461.1 Rope Rescue Awareness Level/Operations Level Certification, §469.3 Minimum Standards for Rope Rescue Awareness Level/Operations Level, §469.5 Examination Requirement, §469.201 Rope Rescue Technician Level, §469.203 Minimum Standards for Rope Rescue Technician Level Certification, and §469.205 Examination Requirements.

The new chapter is adopted with changes as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5003). The changes are made in Subchapter B, Minimum Standards for Rope Rescue, §469.203, Minimum Standards for Rope Rescue Technician Level Certification (C). The changes were made to note the combined test requirement. This rule will be republished. Sections 469.1, 469.3, 469.5, 469.201 and 469.205 are adopted without changes and will not be republished.

This new chapter is adopted to allow for technical rescue certification.

No comments were received from the public regarding the adoption of the new chapter.

SUBCHAPTER A. MINIMUM STANDARDS FOR ROPE RESCUE AWARENESS AND OPERATIONS

37 TAC §§469.1, 469.3, 469.5

The new chapter is adopted under Texas Government Code §419.008(a), which provides the Commission may adopt rules for the administration of its powers and duties.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403915
Frank King
General Counsel
Texas Commission on Fire Protection
Effective date: September 15, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 936-3824

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SUBCHAPTER B. MINIMUM STANDARDS FOR ROPE RESCUE TECHNICIAN

37 TAC §§469.201, 469.203, 469.205

The new sections are adopted under Texas Government Code §419.008(a), which provides the Commission may adopt rules for the administration of its powers and duties.

§469.203. Minimum Standards for Rope Rescue Technician Level Certification.

In order to be certified at the Rope Rescue Technician Level, an individual must:

(1) Option 1--hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(A) hold a Rope Rescue Awareness Level/Operations Level certification through the commission; and

(B) complete a commission-approved Rope Rescue Technician Level program and successfully pass the commission examination for Rope Rescue Technician as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Rope Rescue Technician Level program must consist of one of the following:

(i) completion of an in-state Rope Rescue Technician Level program meeting the requirements of the applicable NFPA standard and conducted by a commission-certified training provider that was submitted and approved through the commission's training prior approval system; or

(ii) successful completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard.

(2) Option 2--hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(A) complete a commission-approved Rope Rescue Awareness Level/Operations Level program. An approved Rope Rescue Awareness Level/Operations Level program must consist of one of the following:

(i) completion of an in-state Rope Rescue Awareness Level/Operations Level program meeting the requirements of the applicable NFPA standard and conducted by a commission-certified training provider that was submitted and approved through the commission's training prior approval system; or

(ii) successful completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard; and

(B) complete a commission-approved Rope Rescue Technician Level program. An approved Rope Rescue Technician Level program must consist of one of the following:

(i) completion of an in-state Rope Rescue Technician Level program meeting the requirements of the applicable NFPA standard and conducted by a commission-certified training provider that was submitted and approved through the commission's training prior approval system; or

(ii) completion of an out-of-state educational institution of higher education, and/or military training program that has been submitted to the commission for evaluation and found to meet the requirements of the applicable NFPA standard; and

(C) successfully pass the commission examination for Rope Rescue Awareness Level & Operations Level combined with the Technician Level as specified in Chapter 439 of this title (relating to Examinations for Certification).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 26, 2024.

TRD-202403916
Frank King
General Counsel
Texas Commission on Fire Protection
Effective date: September 15, 2024
Proposal publication date: July 12, 2024
For further information, please call: (512) 936-3824

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 27. TOLL PROJECTS
SUBCHAPTER G. OPERATION OF DEPARTMENT TOLL PROJECTS

The Texas Department of Transportation (department) adopts amendments to §§27.80 - 27.82 and the repeal of §27.86, all concerning Operation of Department Toll Projects. The amendments to §§27.80 - 27.82 and the repeal of §27.86 are adopted without changes to the text as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4028) and will not be republished.

EXPLANATION OF PROPOSED AMENDMENTS AND REPEAL

The primary purpose of this rulemaking is to provide contracting flexibility for the department with respect to the operation of its toll projects. In addition, the rulemaking corrects outdated terminology and eliminates unnecessary provisions.

Amendments to §27.80, Definitions, add the defined term "Toll Project Entity" to mean an entity authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including a regional tollway authority under Transportation Code, Chapter 366, a regional mobility authority under Transportation Code, Chapter 370, or a county under Transportation Code, Chapter 284.

Amendments to §27.81, Free Use of Turnpike Project By Military Vehicle, replace the term "turnpike" with the term "toll" for consistency with current statutory provisions. The amendments also add new subsection (g), which provides that if the department enters into an agreement with a toll project entity to operate a toll project, the use of the project by military vehicles may be governed by the rules and policies of the toll project entity in lieu of the requirements of the section, with exception of subsection (f).

Amendments to §27.82, Toll Operations, update the heading of subsection (f) to distinguish that subsection from new subsection (i). New subsection (i) provides that if the department enters into an agreement with a toll project entity to operate a toll project, the operation of the project may be governed by the rules and policies of the toll project entity in lieu of the requirements of the section, with the exception of subsections (d) and (g).

Repeal of §27.86, Veteran Discount Program, eliminates the stated requirements for an electronic toll collection customer to participate in the veteran discount program established pursuant Texas Transportation Code, §372.053. This rule was never implemented due to system limitations and the department has subsequently determined that the provisions are unnecessary.

COMMENTS

No comments to the proposed repeal and amendments were received.

43 TAC §§27.80 - 27.82

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §228.007, which authorizes the department to enter into an agreement with a toll project entity to design, construct, operate, or maintain a toll lane on a state highway and to charge a toll for the use of one or more lanes of a state highway facility, Transportation Code, §228.059, which authorizes a toll collected for the use of a toll lane on a state highway pursuant to an agreement for tolling services with a toll project entity to be governed by the fee and fine structure of the entity issuing the initial toll invoice, Transportation Code, §362.901, which requires the commission to adopt rules relating to the free use of department toll projects by military vehicles, and Transportation Code, §372.053, which authorizes a toll project entity to establish a veterans discount program.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §228.007, §228.059, §362.901, and §372.053.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403888

Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 463-8630

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43 TAC §27.86

STATUTORY AUTHORITY

The repeal is adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §228.007, which authorizes the department to enter into an agreement with a toll project entity to design, construct, operate, or maintain a toll lane on a state highway and to charge a toll for the use of one or more lanes of a state highway facility, Transportation Code, §228.059, which authorizes a toll collected for the use of a toll lane on a state highway pursuant to an agreement for tolling services with a toll project entity to be governed by the fee and fine structure of the entity issuing the initial toll invoice, Transportation Code, §362.901, which requires the commission to adopt rules relating to the free use of department toll projects by military vehicles, and Transportation Code, §372.053, which authorizes a toll project entity to establish a veterans discount program.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, §228.007, §228.059, §362.901, and §372.053.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403889
Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 463-8630

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CHAPTER 28. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS
SUBCHAPTER H. HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY PERMITS

43 TAC §28.102

The Texas Department of Transportation (department) adopts the amendments to §28.102 concerning Authority's Powers and Duties. The amendments to §28.102 are adopted without changes to the proposed text as published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4031) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

These amendments grant the Hidalgo County Regional Mobility Authority (HCRMA) additional authority to issue permits for the operation of oversize/overweight vehicles on a designated roadway segment within Hidalgo County and clarify the limits of that authority. Transportation Code, §623.363(a)(2), authorizes the Texas Transportation Commission (commission) to designate additional routes for which HCRMA may issue oversize and overweight permits. The statute requires that the commission consult with HCRMA prior to the designation. The department worked with HCRMA to identify the additional route that would benefit the HCRMA permitting process.

Amendments to §28.102, Authority's Powers and Duties, clarify that the purpose of the rule is to authorize the issuance of permits by the HCRMA for roads listed under Transportation Code, §623.363, and those routes identified and designated by the commission. The amendments add an additional route designated by the commission for which HCRMA is authorized to issue permits for the operation of oversize/overweight vehicles. The added route is: the segment of W. Doffing Road from the intersection with Doffin Canal Road/S. Veterans Blvd (Spur 29) to 0.8 miles east of that intersection, which segment is not on the state highway system. This addition expands HCRMA's permitting authority for the operation of the roadways within its jurisdiction and allows HCRMA to provide more complete service to the motor carriers using the permits within Hidalgo County.

These amendments also require, prior to issuing any oversize/overweight permits on the newly added off-system roadway, HCRMA must demonstrate to the department's satisfaction that the roadway has sufficient structure to safely sustain the overweight loads. The amendments also dictate that it is the responsibility of HCRMA to maintain the off-system road and that the maintenance contract required between the department and HCRMA will provide for the allocation of permit fees between the department and HCRMA. Finally, the amendments dictate that HCRMA may not issue permits that authorize travel on this off-system segment of roadway after September 30, 2025.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission (commission) with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §623.369 authorizing the commission to adopt rules necessary to implement Subchapter S, Regional Mobility Authority Permits.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Transportation Code, Chapter 623, Subchapter S.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 22, 2024.

TRD-202403891

Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Effective date: September 11, 2024
Proposal publication date: June 7, 2024
For further information, please call: (512) 463-8630

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Texas

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 228, Retail Food Establishments

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 228, Retail Food Establishments, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to foodestablishments@dshs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 228" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202403866
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 21, 2024

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Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 304, Diagnostic Assessment

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 304, Diagnostic Assessment, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to IDDServicesPolicyandRules@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 304" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202403865
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 21, 2024

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The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 370, Human Trafficking Resource Center

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 370, Human Trafficking Resource Center, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to Human_Trafficking@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 370" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (www.sos.texas.gov).

TRD-202403980
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 27, 2024

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Texas Parks and Wildlife Department

Title 31, Part 2

The Texas Parks and Wildlife Department files this notice of intention to review the following chapters of 31 TAC, Part 2:

Chapter 53. Finance

Subchapter A. Fees

Subchapter B. Stamps

Subchapter C. License Deputies and Vessel Registration Agents

Subchapter D. Commercial Fishing Boat Numbers

Subchapter E. Display of Boat Registration

Subchapter F. Bonded Title for Vessels/Outboard Motors

Subchapter G. Marine Dealers, Distributors, and Manufacturers

Subchapter H. License Standards

Subchapter I. Combination and Super-Combination License Revenue Allocation

Chapter 59. Parks

Subchapter A. Park Entrance and Park User Fees

Subchapter B. Local Park Planning Assistance

Subchapter C. Acquisition and Development of Historic Sites, Buildings and Structures

Subchapter D. Administration of the State Park System

Subchapter E. Operation and Leasing of Park Concessions

Subchapter F. State Park Operational Rules

Subchapter I. Gratuities

Subchapter J. Off-Highway Vehicle Trail and Recreational Area Program

Chapter 69. Resource Protection

Subchapter A. Endangered, Threatened, and Protected Native Plans

Subchapter B. Fish and Wildlife Values

Subchapter C. Wildlife Rehabilitation Permits

Subchapter D. Memorandum of Understanding

Subchapter E. Natural Resource Damages

Subchapter F. Health Certification of Native Shellfish

Subchapter G. Compliance with Coastal Management Plan

Subchapter H. Issuance of Marl, Sand, and Gravel Permits

Subchapter I. Shell Dredging on the Texas Gulf Coast

Subchapter J. Scientific, Educational, and Zoological Permits

Subchapter K. Sale of Nongame Species

This review is pursuant to Government Code, §2001.039. The department will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reasons for adopting the sections under review continue to exist. Final consideration of this rules review by the Parks and Wildlife Commission is scheduled for the commission meeting to be held in Austin, Texas on January 23, 2025.

Any questions or written comments pertaining to this notice of intent to review should be directed to James Murphy, General Counsel, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Any proposed changes to rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the commission.

TRD-202403868
Laura Carr
Assistant General Counsel
Texas Parks and Wildlife Department
Filed: August 22, 2024

♦ ♦ ♦

Texas Department of Transportation

Title 43, Part 1

In accordance with Government Code, §2001.039, the Texas Department of Transportation (department) files this notice of intention to review Title 43 TAC, Part 1, Chapter 2, Environmental Review of Transportation Projects, Chapter 7, Rail Facilities, Chapter 26, Regional Mobility Authorities, Chapter 28, Oversize and Overweight Vehicles and Loads, Chapter 30, Aviation, and Chapter 31, Public Transportation.

The department will accept comments regarding whether the reasons for adopting these rules continue to exist. Comments regarding this rule review may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Rule Review." The deadline for receipt of comments is 5:00 p.m. on October 7, 2024.

In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

TRD-202403894
Becky Blewett
Deputy General Counsel
Texas Department of Transportation
Filed: August 22, 2024

♦ ♦ ♦

Adopted Rule Reviews

Texas Health and Human Services Commission

Title 1, Part 15

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 351, Coordinated Planning and Delivery of Health and Human Services

Notice of the review of this chapter was published in the April 12, 2024, issue of the *Texas Register* (49 TexReg 2323). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 351 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 351 except for:

§351.703, Grant Program for Regional and Local Health Care Programs.

The repeals identified by HHSC in the rule review and any amendments, if applicable, to Chapter 351 will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 351 as required by Texas Government Code §2001.039.

TRD-202404006
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 28, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 1, Part 15, of the Texas Administrative Code (TAC):

Chapter 366, Medicaid Eligibility for Women, Children, Youth, and Needy Families

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4937). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 366 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 366. Any amendments, if applicable, to Chapter 366 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 1 TAC Chapter 366 as required by the Texas Government Code §2001.039.

TRD-202403908
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 23, 2024

♦ ♦ ♦

Department of Savings and Mortgage Lending

Title 7, Part 4

The Department of Savings and Mortgage Lending (SML) has completed its review of the following chapters of 7 TAC Part 4:

Chapter 78, Wrap Mortgage Loans (§§78.1 - 78.3, 78.100 - 78.102, 78.200, 78.201, 78.300 - 78.303, 78.400 - 78.403);

Chapter 79, Residential Mortgage Loan Servicers (§§79.1 - 79.20, 79.30, 79.40, 79.50);

Chapter 80, Residential Mortgage Loan Companies (§§80.1 - 80.5, 81.100 - 80.102, 80.105 - 80.107, 80.200 - 80.206, 80.300 - 80.302); and

Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators (§§81.1 - 81.5, 81.100 - 81.111, 81.200 - 81.206, 81.300 - 81.302).

The review was conducted in accordance with Government Code §2001.039. Notice of the review was published in the March 8, 2024, issue of the *Texas Register* (49 TexReg 1517). No comments were received in response to the notice.

The rules in 7 TAC Chapters 78 - 81 were adopted by the Finance Commission of Texas (commission) on behalf of SML.

As a result of the rule review conducted by SML, the commission has determined that certain changes to the rules are appropriate. Those proposed rule changes are published in the Proposed Rules section in this issue of the *Texas Register*.

The commission, after considering the results of the rule review conducted by SML, finds that the reasons for initially adopting the rules reviewed continue to exist and readopts 7 TAC Chapters 78 - 81.

TRD-202403971
Iain A. Berry
General Counsel
Department of Savings and Mortgage Lending
Filed: August 26, 2024

♦ ♦ ♦

State Board of Dental Examiners

Title 22, Part 5

The Texas State Board of Dental Examiners (Board) adopts the review of the chapters below in Title 22, Part 5, of the Texas Administrative Code (TAC):

Chapter 107, Dental Board Procedures; and

Chapter 111, Standards for Prescribing Controlled Substances and Dangerous Drugs.

Notice of the review of these chapters was published in the May 17, 2024, issue of the *Texas Register* (49 TexReg 3591). No comments were received in response to this notice.

The Board has reviewed Chapters 107 and 111 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the original reasons for adopting a rule continue to exist.

The Board determined that the initial reasons for adopting rules in the chapters continue to exist and readopts Chapters 107 and 111 except for:

§107.17, Service in Non-Rulemaking Proceedings;

§107.105, Collection of Information and Records;

§107.106, Confidentiality of Investigations; and

§107.300, Responsibilities of Compliance Division. The Board finds the original reasons for adopting these rules continue to exist but with amendments needed. Proposed amendments for these sections were published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4003).

In addition, the Board finds the original reasons for adopting §107.3, Effect of Student Loan Payment Default on Licensure, no longer exist, and the section should be repealed. The proposed repeal of this sec-

tion was published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4003).

This concludes the Board's review of 22 TAC Chapters 107 and 111 as required by the Texas Government Code §2001.039.

TRD-202403979
Lauren Studdard
General Counsel
State Board of Dental Examiners
Filed: August 27, 2024

♦ ♦ ♦

Texas Real Estate Commission

Title 22, Part 23

In accordance with Texas Government Code §2001.039, the Texas Real Estate Commission (TREC) has concluded its review of Texas Administrative Code, Title 22, Part 23, Chapter 531, Canons of Professional Ethics and Conduct, Chapter 533, Practice and Procedure, Chapter 534, General Administration, and Chapter 541, Rules Relating to the Provisions of Texas Occupations Code, Chapter 53. The notice of proposed rule review was published in the February 23, 2024, issue of the *Texas Register* (49 TexReg 1105).

TREC has determined that the reasoned justification for adopting Texas Administrative Code, Title 22, Part 23, Chapters 531, 533, 534 and 541 continues to exist. Furthermore, the review process indicated that certain rules needed to be amended to further refine or better reflect current TREC procedures and policy considerations or that rules should be combined or reduced for simplification and clarity.

Accordingly, amendments to 22 TAC Chapters 533, Subchapter B, and 534 were proposed and published in the June 7, 2024, issue of the *Texas Register* (49 TexReg 4007) and (49 TexReg 4008), respectively, and are adopted under the Adopted Rules section of this issue of the *Texas Register*.

No comments were received regarding TREC's notice of review. This notice concludes TREC's review of Texas Administrative Code, Title 22, Part 23, Chapters 531, 533, 534, and 541.

Issued in Austin, Texas on August 19, 2024.

TRD-202403883
Abby Lee
Deputy General Counsel
Texas Real Estate Commission
Filed: August 22, 2024

♦ ♦ ♦

Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 83, Public Health Improvement Grants

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4937). DSHS received no comments concerning this chapter.

DSHS has reviewed Chapter 83 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

DSHS determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 83. Any amendments, if applicable, to Chapter 83 identified by DSHS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DSHS' review of 25 TAC Chapter 83 as required by the Texas Government Code §2001.039.

TRD-202403994
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 28, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 95, Prescription Drug Donation Program

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4938). HHSC received no comments concerning this chapter.

DSHS has reviewed Chapter 95 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 95. Any amendments, if applicable, to Chapter 95 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes DSHS' review of 25 TAC Chapter 95 as required by Texas Government Code §2001.039.

TRD-202403869
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 22, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 103, Injury Prevention and Control

Notice of the review of this chapter was published in the June 28, 2024, issue of the *Texas Register* (49 TexReg 4811).

DSHS received comments concerning this chapter from the DSHS Consumer Protection Division, EMS Trauma Systems, State EMS Director. A summary of comments and DSHS responses follows.

Comment: Commenter suggests removing definitions for "call for assistance" in §103.2 (relating to Definitions).

Response: DSHS agrees with the comment.

Comment: Commenter recommends adding the following definitions in §103.2:

- Dispatch - The sending of individuals and equipment by EMS for assessment, prompt efficient treatment, and transportation, if required, of a sick or injured patient.

- EMS medical director - The licensed physician who provides medical supervision to the EMS personnel of a licensed EMS provider or a recognized first responder organization (FRO) under the terms of the Medical Practice Act (Texas Occupations Code Chapters 151 - 165) and rules promulgated by the Texas Medical Board; may also be called "off-line medical control."

- National EMS Information System (NEMSIS) - A universal standard for how patient care information resulting from an EMS response is collected.

- Patient - A person in whom an injury or illness is identified by a physician or medical examiner based upon clinical evaluation, interpretation of laboratory and/or radiological findings, and an appropriate exposure history.

- Trauma patient - a critically injured person who has been:

- (A) Evaluated by a physician, a registered nurse, or emergency medical services personnel; and

- (B) Found to require medical care in a trauma facility.

DSHS agrees with this recommendation.

Comment: Commenter recommends editing the following definitions in §103.2:

- EMS provider - remove all text after "as defined by Health and Safety Code, Chapter 773.003."

- Investigation - replace current text with "To observe or study by close examination and systematic inquiry on a response or event".

- Regional Registry - replace "runs" with "responses."

- Registries - add language to read, "required reportable response or event as defined in this section."

- EMS run - replace "person" with "patient."

- Suspected case - edit term to say, "Suspected response" and change case to response in definition. Also, add "or illness" after injury.

- Trauma - change entire definition to, "An injury or wound to a living body caused by the application of an external force or violence, including burn injuries, and meeting the trauma program's trauma activation guidelines."

Response: DSHS agrees with recommendations.

Comment: Commenter recommended changing §103.5(a)(1) (relating Reporting Requirements for EMS Provider) submission deadline from 90 days to 30 days and adding clarification to "date of call for assistance" to "Date of the dispatch for assistance" and changing "monthly" submissions to "real-time" submissions.

Comment: Commenter recommended changing "runs" to "dispatches" in §103.5(a)(2).

Comment: Commenter recommended replacing current language in §103.5(b)(2) with "Data will meet the current National EMS Information System (NEMSIS) universal submission standards."

DSHS agrees with recommendations.

DSHS reviewed Chapter 103 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

DSHS determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 103. Any amendments, if applicable, to Chapter 103 identified by DSHS in the rule review will be proposed in a future issue of the *Texas Register.*

This concludes DSHS's review of 25 TAC Chapter 103 as required by the Texas Government Code §2001.039.

TRD-202403867
Jessica Miller
Director, Rules Coordination Office
Department of State Health Services
Filed: August 21, 2024

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Texas Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 360, Office of Deaf and Hard of Hearing Services

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4939). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 360 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 360. Any amendments, if applicable, to Chapter 360 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register.*

This concludes HHSC's review of 26 TAC Chapter 360 as required by the Texas Government Code §2001.039.

TRD-202403905
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 23, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 365, Kidney Health Care

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4939). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 365 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 365. Any amendments, if applicable, to Chapter 365 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register.*

This concludes HHSC's review of 26 TAC Chapter 365 as required by the Texas Government Code §2001.039.

TRD-202403860

Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 21, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC) adopts the review of the chapter below in Title 26, Part 1, of the Texas Administrative Code (TAC):

Chapter 745, Licensing

Notice of the review of this chapter was published in the June 21, 2024, issue of the *Texas Register* (49 TexReg 4607). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 745 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 745. Any amendments, if applicable, to Chapter 745 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 26 TAC Chapter 745 as required by Texas Government Code §2001.039.

TRD-202403974
Jessica Miller
Director, Rules Coordination Office
Texas Health and Human Services Commission
Filed: August 26, 2024

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Department of Aging and Disability Services

Title 40, Part 1

The Texas Health and Human Services Commission (HHSC), as the successor agency of the Texas Department of Aging and Disability Services, adopts the review of the chapter below in Title 40, Part 1, of the Texas Administrative Code (TAC):

Chapter 9, Intellectual Disability Services--Medicaid State Operating Agency Responsibilities

Notice of the review of this chapter was published in the April 19, 2024, issue of the *Texas Register* (49 TexReg 2552). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 9 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 9. Any amendments, if applicable, to Chapter 9 identified by HHSC in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 40 TAC Chapter 9 as required by Texas Government Code §2001.039.

TRD-202403972
Jessica Miller
Director, Rules Coordination Office
Department of Aging and Disability Services
Filed: August 26, 2024

♦ ♦ ♦

The Texas Health and Human Services Commission (HHSC), as the successor agency of the Texas Department of Aging and Disability Services, adopts the review of the chapter below in Title 40, Part 1, of the Texas Administrative Code (TAC):

Chapter 72, Memorandum of Understanding with Other State Agencies

Notice of the review of this chapter was published in the July 5, 2024, issue of the *Texas Register* (49 TexReg 4939). HHSC received no comments concerning this chapter.

HHSC has reviewed Chapter 72 in accordance with Texas Government Code §2001.039, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Chapter 72 except for:

§72.204, Texas Department of Mental Health and Mental Retardation (TXMHMR);

§72.205, Texas Rehabilitation Commission;

§72.206, Texas Commission for the Blind;

§72.207, Texas Commission for the Deaf and Hearing Impaired;

§72.210, The Texas Interagency Council on Early Childhood Intervention (ECI); and

§72.5001, Memorandum of Understanding Concerning Capacity Assessment for Self Care and Financial Management.

The repeals identified by HHSC in the rule review and any amendments, if applicable, to Chapter 72 will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's review of 40 TAC Chapter 72 as required by Texas Government Code §2001.039.

TRD-202404015
Jessica Miller
Director, Rules Coordination Office
Department of Aging and Disability Services
Filed: August 28, 2024

♦ ♦ ♦

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 7 TAC §55.113(e)

Schedule of Criminal Offenses Determined to be Directly Related to Residential Mortgage Loan Origination

Texas Offenses:

Offense	Statutory Reference	Nexus to Residential Mortgage Loan Origination (reference to Rule §55.110(e))
Abuse of Official Capacity	Tex. Pen. Code §39.02	(1), (2)
Acceptance of Gift/Honorarium by Public Servant	Tex. Pen. Code §§36.07, 36.08	(1)
Agreement to Abduct Child	Tex. Pen. Code §25.031	(2)
Burglary, in furtherance of theft; Burglary of Vehicle	Tex. Pen. Code §§30.02, 30.04	(2)
Breach of Computer Security	Tex. Pen. Code §33.02	(1), (2)
Bribery	Tex. Pen. Code §36.02	(1)
Bribery, Commercial	Tex. Pen. Code §32.43	(1)
Coercion of Public Servant or Voter	Tex. Pen. Code §36.03	(1)
Counterfeiting Trademark	Tex. Pen. Code §32.23	(1)
Credit Card or Debit Card Abuse	Tex. Pen. Code §32.31	(1), (2)
Credit Card Transaction Record Laundering	Tex. Pen. Code §32.35	(1)
Criminal Attempt, Solicitation, or Conspiracy	Tex. Pen. Code §§15.01, 15.02, 15.03, 15.031	See offense attempted, solicited or conspired
Criminal Simulation	Tex. Pen. Code §32.22	(1)
Criminally Negligent Homicide, arising from intoxication	Tex. Pen. Code §19.05	(3)
Deceptive Business Practices	Tex. Pen. Code §32.42	(1)
Driving/Boating/Flying while Intoxicated	Tex. Pen. Code §§49.04, 49.05, 49.06, 49.09	(3)
Driving while Intoxicated with Child Passenger	Tex. Pen. Code §49.045	(3)
Drug Offenses	Tex. Health & Safety Code Chs. 481, 482, 483	(3)
Escape from Custody	Tex. Pen. Code §38.06	(1)

Evading Arrest or Detention	Tex. Pen. Code §38.04	(1)
Exploitation of Child/Elderly/Disabled	Tex. Pen. Code §32.53	(1), (2)
False Report of Emergency	Tex. Pen. Code §42.06	(1)
False Report to Law Enforcement	Tex. Pen. Code §37.08	(1)
False Statement to Obtain Property, Credit or Services	Tex. Pen. Code §32.32	(1), (2)
Forgery	Tex. Pen. Code §32.21	(1), (2)
Fraudulent Court Record	Tex. Pen. Code §37.13	(1)
Fraudulent Destruction, Removal, or Concealment of Writing	Tex. Pen. Code §32.47	(1)
Fraudulent Filing of Financing Statement	Tex. Pen. Code §37.101	(1)
Fraudulent or Fictitious Military Record	Tex. Pen. Code §32.54	(1)
Fraudulent Use or Possession of Identifying Information	Tex. Pen. Code §32.51	(1)
Fraudulent, Substandard, or Fictitious Degree	Tex. Pen. Code §32.52	(1)
Fraudulent Transfer of a Motor Vehicle	Tex. Pen. Code §32.34	(1)
Hindering Apprehension or Prosecution	Tex. Pen. Code §38.05	(1)
Hindering Secured Creditors	Tex. Pen. Code §32.33	(1), (2)
Impersonating Lawyer	Tex. Pen. Code §38.122	(1)
Impersonating Public Servant	Tex. Pen. Code §37.11	(1)
Impersonating Peace Officer	Tex. Pen. Code §37.12	(1)
Improper Gift to Public Servant	Tex. Pen. Code §36.09	(1)
Improper Influence	Tex. Pen. Code §36.04	(1)
Insurance Fraud	Tex. Pen. Code §35.02	(1)
Intoxication Assault	Tex. Pen. Code §49.07	(3)
Intoxication Manslaughter	Tex. Pen. Code §49.08	(3)
Manslaughter, arising from intoxication	Tex. Pen. Code §19.04	(3)
Medicaid Fraud	Tex. Pen. Code §35A.02	(1), (2)
Misapplication of Fiduciary Property or Property of Financial Institution	Tex. Pen. Code §32.45	(1), (2)
Misuse of Official Information	Tex. Pen. Code §39.06	(1)
Money Laundering	Tex. Pen. Code §34.02	(1), (2)

Official Oppression by Public Servant	Tex. Pen. Code §39.03	(1)
Online Impersonation	Tex. Pen. Code §33.07	(1)
Organized Criminal Activity	Tex. Pen. Code §71.02	See underlying offense
Perjury; Aggravated Perjury	Tex. Pen. Code §§37.02, 37.03	(1)
Prohibited Substances and Items in Correctional Facility	Tex. Pen. Code §38.11	(1), (3)
Robbery; Aggravated Robbery	Tex. Pen. Code §§29.02, 29.03	(2)
Securing Execution of Document by Deception	Tex. Pen. Code §32.46	(1), (2)
Simulating Legal Process	Tex. Pen. Code §32.48	(1)
Smuggling of Persons; Continuous Smuggling of Persons	Tex. Pen. Code §§20.05, 20.06	(1)
Stealing or Receiving Stolen Check	Tex. Pen. Code §32.24	(1), (2)
Tampering of Electronic Data	Tex. Pen. Code §33.023	(1)
Tampering with Consumer Product	Tex. Pen. Code §22.09	(1)
Tampering with Governmental Record	Tex. Pen. Code §37.10	(1)
Tampering with Identification Numbers	Tex. Pen. Code §31.11	(1)
Tampering with or Fabricating Physical Evidence	Tex. Pen. Code §37.09	(1)
Tampering with Witness	Tex. Pen. Code §36.05	(1)
Theft	Tex. Pen. Code §31.03	(2)
Theft – Organized Retail Theft	Tex. Pen. Code §31.16	(2)
Theft of Cargo	Tex. Pen. Code §31.18	(2)
Theft of Petroleum Product	Tex. Pen. Code §31.19	(2)
Theft of Service	Tex. Pen. Code §31.04	(1), (2)
Trafficking of Persons; Continuous Trafficking of Persons	Tex. Pen. Code §§20A.02, 20A.03	(1)
Unauthorized Absence from Corrections Facility	Tex. Pen. Code §38.113	(1)
Unauthorized Acquisition or Transfer of Financial Information	Tex. Pen. Code §31.17	(1), (2)
Unauthorized Use of a Vehicle	Tex. Pen. Code §31.07	(1), (2)
Unlawful Access to Stored Communications	Tex. Pen. Code §16.04	(1), (2)
Unlawful Interception, Use, or Disclosure of Wire, Oral or Electronic Communications	Tex. Pen. Code §16.02	(1)

Unlawful Use of Criminal Instrument or Mechanical Security Device	Tex. Pen. Code §16.01	(1)
Unlawful Use of Pen Register or Trap and Trace Device	Tex. Pen. Code §16.03	(1)

Federal Offenses:

Offense	Statutory Reference	Nexus to Residential Mortgage Loan Origination (reference to Rule §55.110(e))
Bankruptcy Fraud	18 U.S.C. §§151-158	(1)
Bribery, Graft and Conflicts of Interest	18 U.S.C. §§201-227	(1)
Conspiracy to Commit Offense or Defraud	18 U.S.C. §§371-373	(1); See also conspired offense, if applicable
Counterfeiting and Forgery	18 U.S.C. §§470-514	(1)
Customs Fraud	18 U.S.C. §§541-555	(1)
Drug Offenses	21 U.S.C. §§841-865	(3)
False Claims Affecting Government	18 U.S.C. §§281-293	(1)
Fraud, False Statements, Identity Theft	18 U.S.C. §§1001-1070	(1)
Mail Fraud, and other fraud offenses (Wire Fraud, bank fraud, health care fraud, securities/investment fraud)	18 U.S.C. §§1341-1351; 15 U.S.C. §§ 78ff(a), 78j, 77x, 80b-17, 80a-48, 77yyy	(1), (2)
Obstruction of Justice / Tampering with Government Records	18 U.S.C. §§1501-1521; 2071-2076	(1)
Passport/Visa Fraud	18 U.S.C. §§1541-1547	(1)
Perjury	18 U.S.C. §§1621-1623	(1)
Racketeering/RICO Offenses/ Money Laundering Offenses	18 U.S.C. §§1951-1990	(1), (2)
Robbery and Burglary	18 U.S.C. §§2111-2119	(2)
Tax Fraud	26 U.S.C. §§7201-7230	(1), (2)
Theft, Embezzlement	18 U.S.C. §§641-670	(2)

Figure: 7 TAC §56.200(b)

TEXAS MORTGAGE COMPANY DISCLOSURE

Pursuant to Texas Finance Code Section 156.004, you are notified of the following:

- We will either submit your loan application to a participating lender or make your loan ourselves. In connection with this mortgage loan, we are acting as an independent contractor and not as your agent.
- We will be compensated in compliance with the federal Truth in Lending Act and Regulation Z (see 12 C.F.R. § 1026.36(d)) (if applicable).

CONSUMERS WISHING TO FILE A COMPLAINT AGAINST A MORTGAGE COMPANY OR RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSED IN TEXAS, OR TO FILE A CLAIM AGAINST A RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSED IN TEXAS SHOULD SEND A COMPLETED COMPLAINT FORM OR CLAIM APPLICATION TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING (SML): 2601 N. LAMAR BLVD., SUITE 201, AUSTIN, TEXAS 78705; TEL: 1-877-276-5550. INFORMATION AND FORMS ARE AVAILABLE ON SML's WEBSITE: SML.TEXAS.GOV.

ISSUED BY:

Residential Mortgage Loan Originator:_____

NMLS ID:_____

Figure: 7 TAC §56.201(a)

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s)/ Applicant(s):

Mortgage Company:

NMLS ID #:

Loan Details

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

Mortgage company ___has ____has not reviewed the prospective applicant's/ applicant's credit report and credit score

The prospective applicant(s) /applicant(s) have provided the mortgage company with the following information:

Income ____Yes ____No ____Not applicable

Available cash to close ____Yes ____No ____Not applicable

Debts ____Yes ____No ____Not applicable

Assets ____Yes ____No ____Not applicable

Based on the information that the prospective applicant(s) / applicant(s) have provided, the mortgage company has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section.

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested;

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided;

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes;

4. The collateral for the loan to satisfy the lender's requirements;

5. The loan, as described, to remain available in the market;

6. The prospective applicant(s) / applicant(s) to execute all documents the lender requires;

7. The following additional items (list):

This conditional pre-qualification expires on: _____

_____
Residential Mortgage Loan Originator Name

_____
Mailing address

_____
Phone number

_____
e-mail address

_____
NMLS ID #

Figure: 7 TAC §56.201(b)

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Company:

NMLS ID #:

Loan Details:

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

Has a subject property been identified? _____Yes _____No

Mortgage company has:

Reviewed prospective applicant's /_applicant's credit report and credit score ____Yes ____Not applicable

Verified prospective applicant's / applicant's income ____Yes ____Not applicable

Verified prospective applicant's / applicant's available cash to close ___Yes ____Not applicable

Verified prospective applicant's / applicant's debts and other assets _____Yes ____Not applicable

Prospective applicant(s) / applicant(s) is **approved** for the loan provided that creditworthiness and financial position do not materially change prior to closing and **provided that**:

1. The subject property is appraised for an amount not less than $_____

2. The lender receives an acceptable title commitment

3. The lender receives an acceptable survey

4. The subject property's condition meets lender's requirements

5. The subject property is insured in accordance with lender's requirements

6. The prospective applicant(s) / applicant(s) executes all the documents lender requires and

7. The following additional conditions are complied with (list):

This conditional approval expires on _____

_____
Residential Mortgage Loan Originator Name

_____
Mailing address

_____
Phone number

_____
e-mail address

_____
NMLS ID #

Figure: 7 TAC §57.200(b)

TEXAS MORTGAGE BANKER DISCLOSURE

Pursuant to Texas Finance Code Section 157.0021, you are notified of the following:

CONSUMERS WISHING TO FILE A COMPLAINT AGAINST A MORTGAGE BANKER OR RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSED IN TEXAS, OR TO FILE A CLAIM AGAINST A RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSED IN TEXAS SHOULD SEND A COMPLETED COMPLAINT FORM OR CLAIM APPLICATION TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING (SML): 2601 N. LAMAR BLVD., SUITE 201, AUSTIN, TEXAS 78705; TEL: 1-877-276-5550. INFORMATION AND FORMS ARE AVAILABLE ON SML'S WEBSITE: SML.TEXAS.GOV.

ISSUED BY:

Residential Mortgage Loan Originator:_____

NMLS ID:_____

Figure: 7 TAC §57.201(a)

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID #

Loan Details:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

Mortgage banker ___ has _____ has not reviewed the prospective applicant's / applicant's credit report and credit score

The prospective applicant(s) / applicant(s) has provided the mortgage banker with the following information:

Income _____Yes _____No _____Not applicable

Available cash to close_____Yes _____No _____Not applicable

Debts _____Yes _____No _____Not applicable

Assets _____Yes _____No _____Not applicable

Based on the information that the prospective applicant(s) / applicant(s) has provided, the mortgage banker has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section.

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes

4. The collateral for the loan to satisfy the lender's requirements

5. The loan, as described, to remain available in the market

6. The prospective applicant(s) / applicant(s) to execute all documents the lender requires

7. The following additional items (list):

This conditional pre-qualification expires on _____

_____
Residential Mortgage Loan Originator Name

_____
Mailing address

_____
Phone number

_____
e-mail address

_____
NMLS ID #

Figure: 7 TAC §57.201(b)

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID #

Loan Details:

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

Has a subject property been identified? ____Yes _____No

Mortgage banker has:

Reviewed prospective applicant's / applicant's credit report and credit score: _____Yes ____Not applicable

Verified prospective applicant's / applicant's income: _____Yes ____Not applicable

Verified prospective applicant's / applicant's available cash to close: _____Yes ____Not applicable

Verified prospective applicant's / applicant's debts and other assets: _____Yes ____Not applicable

Prospective applicant(s) / applicant(s) is **approved** for the loan provided that creditworthiness and financial position do not materially change prior to closing and **provided that**:

1. The subject property is appraised for an amount not less than $_____

2. The lender receives an acceptable title commitment

3. The lender receives an acceptable property survey

4. The subject property's condition meets lender's requirements

5. The subject property is insured in accordance with lender's requirements

6. The prospective applicant(s) / applicant(s) executes all the documents the lender requires and

7. The following additional conditions are complied with (list):

This conditional approval expires on _____.

_____
Residential Mortgage Loan Originator Name

_____
Mailing address

_____
e-mail address

_____
NMLS ID #

Figure: 7 TAC §59.101(b)(3)

NOTICE OF WRAP-AROUND MORTGAGE FINANCING ENCUMBERED BY SUPERIOR LIEN PURSUANT TO TEXAS FINANCE CODE SECTION 159.101 AND TEXAS PROPERTY CODE SECTION 5.016

WARNING: ONE OR MORE RECORDED LIENS HAVE BEEN FILED THAT MAKE A CLAIM AGAINST THE PROPERTY REFERENCED BELOW AND WILL BE IN A SUPERIOR POSITION TO ANY LIEN CREATED BY THE FINANCING YOU ARE SEEKING. THIS NOTICE CONTAINS INFORMATION CONCERNING WHETHER OR NOT THE SUPERIOR LIENHOLDER(S) HAVE CONSENTED TO THE PROPERTY BEING TRANSFERRED TO YOU. IF A SUPERIOR LIEN HAS NOT BEEN RELEASED AND THE PROPERTY IS CONVEYED WITHOUT THE CONSENT OF THE SUPERIOR LIENHOLDER, IT IS POSSIBLE THE SUPERIOR LIENHOLDER COULD DEMAND FULL PAYMENT OF THE OUTSTANDING BALANCE SECURED BY THE SUPERIOR LIEN AND MAY AFFECT YOUR RIGHTS AS BUYER OF THE PROPERTY. YOU MAY WISH TO CONTACT EACH LIENHOLDER FOR FURTHER INFORMATION OR DISCUSS THIS MATTER WITH AN ATTORNEY.

IMPORTANT NOTICE REGARDING PROPERTY INSURANCE: ANY INSURANCE MAINTAINED BY A SELLER, LENDER, OR OTHER PERSON WHO IS NOT THE BUYER OF THE PROPERTY MAY NOT PROVIDE COVERAGE TO THE BUYER IF THE BUYER SUFFERS A LOSS OR INCURS LIABILITY IN CONNECTION WITH THE PROPERTY. TO ENSURE YOUR INTERESTS ARE PROTECTED, YOU SHOULD PURCHASE YOUR OWN PROPERTY INSURANCE POLICY TO INSURE THE PROPERTY. BEFORE PURCHASING THIS PROPERTY, YOU MAY WISH TO CONSULT WITH AN INSURANCE AGENT LICENSED BY THE TEXAS DEPARTMENT OF INSURANCE REGARDING THE INSURANCE COVERAGE OPTIONS AVAILABLE TO YOU AS BUYER OF THE PROPERTY.

PROPERTY INFORMATION:

Physical Address		
Street:		
City:	State:	Zip:
Legal Description		

NOTICE OF WRAP-AROUND MORTGAGE FINANCING

ISSUED BY:

Lender		
Legal Name:		
Date of Issuance		
Date:		
Mailing Address		
Street:		
City:	State:	Zip:
Contact Information		
Phone:	Fax:	
Email:	Website:	
Loan Originator (Company) License/Registration Information (if applicable)		
Legal Name:		
NMLS ID:		

LIENHOLDER(S) AND LIEN INFORMATION (list by order of the date the lien was perfected, from oldest to newest; attach additional sheets as necessary):

Lien 1:		
Lienholder		
Legal Name:		
Mailing Address		
Street:		
City:	State:	Zip:
Contact Information		
Phone:	Fax:	
Email:	Website:	
Lien Information		
Account/Reference No.:		
Principal Balance:	Payoff Figure:	
Payment Frequency:	Payment Amount:	
Interest Rate:	Date of Maturity:	
Other Terms or Conditions:		
Consent		
Has the Lienholder Consented to the Transfer?	☐ YES	☐ NO

Lien 2:		
Lienholder		
Legal Name:		
Mailing Address		
Street:		
City:	State:	Zip:
Contact Information		
Phone:	Fax:	
Email:	Website:	
Lien Information		
Account/Reference No.:		
Principal Balance:	Payoff Figure:	
Payment Frequency:	Payment Amount:	
Interest Rate:	Date of Maturity:	
Other Terms or Conditions:		
Consent		
Has the Lienholder Consented to the Transfer?	☐ YES	☐ NO

INSURANCE INFORMATION (attach additional sheets as necessary):

Policy 1:		
Insurer		
Legal Name:		
Mailing Address		
Street:		
City:	State:	Zip:
Contact Information		
Phone:	Fax:	
Email:	Website:	
Policy Information		
Account/Reference No.:		
Insured Amount:		
Insured Property:		
Insured Party:		

NOTICE OF WRAP-AROUND MORTGAGE FINANCING

Policy 2:		
Insurer		
Legal Name:		
Mailing Address		
Street:		
City:	State:	Zip:
Contact Information		
Phone:	Fax:	
Email:	Website:	
Policy Information		
Account/Reference No.:		
Insured Amount:		
Insured Property:		
Insured Party:		

PROPERTY TAX INFORMATION:

Property Taxes Due on the Property	
Amount:	
Annual Property Tax Estimate	
Amount:	Tax Year:

ACKNOWLEDGMENT BY BUYER(S):

_____ _____

Signature Date

_____

Printed Name

_____ _____

Signature Date

_____

Printed Name

Figure: 37 TAC §152.25

Unit Name	Capacity
Allred	[~~3,722~~] 4,464
Bartlett	1,049
Baten	420
Bell [~~Cleveland~~]	520
Beto	3,471
Boyd	1,372
Bradshaw	1,980
Bridgeport	520
Briscoe	1,384
Byrd	1,365
Clemens	[~~1,215~~] 1,536
Clements	[~~3,798~~] 4,048
Coffield	4,139
Cole	900
Coleman [~~Lockhart~~]	1,000
Connally	2,928
Cotulla	606
Crain	2,115
Dalhart	1,398
Daniel	1,384
Diboll	518
Dominguez	2,276
Duncan	[~~566~~] 530
Ellis	2,482
Estelle	[~~3,360~~] 3,460
Estes	1,040
Ferguson	2,421
Formby	1,100
Fort Stockton	606
Garza East *(Includes co-located work camp.)*	2,458
Garza West	2,278
Gist	2,276
Glossbrenner	612
Goodman	612

Goree	1,321
Gurney	2,128
Halbert	612
Hamilton	1,166
Havins	596
Henley	576
Hightower	1,384
Hilltop	553
Hobby	1,384
Hodge	989
Holliday	2,120
Hospital Galveston** *(Medical beds are not permanent housing and do not count toward capacity.)*	0
Hughes	2,984
Huntsville	1,705
Hutchins	2,276
[~~Jester I~~]	[~~323~~]
Jester III	1,185
Johnston	612
Jordan	1,008
Kegans	667
Kyle	520
LeBlanc	1,224
Lewis	[~~2,232~~] 2,388
Lindsey	1,031
Lopez	1,100
Luther	1,316
Lychner	2,276
Lynaugh	1,416
Marlin	606
McConnell	2,984
Mechler [~~Tulia~~]	606
Memorial [~~Darrington~~]	1,931
Michael	3,305
Middleton	2,128
Montford	950
Moore, B.	500
Moore, C.	1,224
Murray	[~~1,341~~] 1,264

Neal	1,732
Ney	576
O'Daniel [~~Mt. View~~]	645
Pack	[~~1,478~~] 1,426
Plane	2,296
Polunsky	2,984
Powledge	1,137
Ramsey	1,891
Roach	1,384
Robertson	2,984
Rudd	612
San Saba	606
Sanchez	1,100
Sayle	632
[~~Scott~~]	[~~1,130~~]
Scott [~~Jester IV~~]	550
Segovia	1,224
Skyview	562
Smith	[~~2,234~~] 2,484
Stevenson	1,384
Stiles	[~~2,979~~] 3,379
Stringfellow	1,212
Telford	2,967
Terrell, C.T.	1,603
Torres	1,384
Travis Co.	1,161
Vance	378
Wainwright [~~Eastham~~]	2,474
Wallace~~*~~ *(Includes co-located work camp.)*	1,448
Ware	916
Wheeler	576
Willacy Co.	1,069
Woodman	900
Wynne	2,621
Young	328

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

Texas Health and Safety Code and Texas Water Code Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to Section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Craft-Turney Water Supply Corporation and Arrington Lumber and Pallet Company, Inc.*; Cause No. D-1-GN-22-000041; in the 419th Judicial District, Travis County, Texas.

Background: Craft-Turney Water Supply Corporation (CTWS) owns and operates a public water system in Jacksonville, Cherokee County, Texas, which serves approximately 1,736 connections and consists of four separate plants. The claims against CTWS in this lawsuit are for violations of statutes and TCEQ rules enacted to protect public health by ensuring safe drinking water. The State initiated the suit on behalf of the Texas Commission on Environmental Quality (TCEQ) to address the protection of public drinking water and enforcement of the Texas Solid Waste Disposal Act. CTWS owns and operates a public water system that was contaminated through an interconnection with an industrial business owned and maintained by Arrington Lumber and Pallet Company, Inc. (Arrington). Arrington stored, processed, or disposed of solid waste in violation of the TSWDA.

Proposed Settlement: This Proposed Agreed Final Judgment (AFJ) applies only to CTWS and its violations of statutes and TCEQ rules enacted to protect public health by ensuring safe drinking water at its public water system in Jacksonville, Texas. The State will proceed with claims against Arrington for its separate violations. The proposed AFJ would settle the claims against CTWS for $24,500.00 in civil penalties and $5,500.00 in attorney's fees, plus post-judgment interest. The AFJ also documents extensive corrective actions Craft-Turney has undertaken to prevent recurrence of similar violations.

For a complete description of the proposed settlement, the agreed judgment should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Katie Hobson, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC 066, Austin, Texas 78711-2548; (512) 463-2012; facsimile (512) 320-0911; email Katie.Hobson@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202404004
Justin Gordon
General Counsel
Office of the Attorney General
Filed: August 28, 2024

♦ ♦ ♦

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/02/24 - 09/08/24 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/02/24 - 09/08/24 is 18.00% for commercial[2] credit.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202403995
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: August 28, 2024

♦ ♦ ♦

Texas Education Agency

Request for Applications (RFA) Concerning Generation Thirty Open-Enrollment Charter Application (RFA #701-25-101) for New Operators

Filing Authority. Texas Education Code (TEC), §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under request for applications (RFA) #701-25-101 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities. At least one member of the applicant team must attend one required applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, must attend. Two webinars will be held, one on Thursday, September 19, 2024, and one on Thursday, September 26, 2024. The public may participate in the webinars by registering in advance at https://zoom.us/webinar/register/WN_ElCV0OzZSqm-FQUwyuvHggQ.

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 30 application cycle.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district fa-

cility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. An electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Friday, December 20, 2024, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and $125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. There is a cap of 305 charters approved under TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-25-101 in May 2025.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Thirty Open-Enrollment Charter Application (RFA #701-25-101), which includes an application and guidance, may be obtained on the TEA website at http://tea.texas.gov/Texas_Schools/Charter_Schools/.

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Charter School Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

TRD-202404000
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 28, 2024

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Request for Applications (RFA) Concerning Generation Thirty Open-Enrollment Charter Application (RFA #701-25-102) for Experienced Operators

Filing Authority. Texas Education Code (TEC), §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under request for applications (RFA) #701-25-102 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities that are considered experienced operators and are operating or have operated a charter school in another portfolio or under another subchapter. At least one member of the applicant team must attend one required applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, must attend. Two webinars will be held, one on Thursday, September 19, 2024, and one on Thursday, September 26, 2024. The public may participate in the webinars by registering in advance at https://zoom.us/webinar/register/WN_ElCV0OzZSqmFQUwyuvHggQ.

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 30 application cycle.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. An electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time) Friday, December 20, 2024, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and $125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An

open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. There is a cap of 305 charters approved under TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-25-102 in May 2025.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Thirty Open-Enrollment Charter Application (RFA #701-25-102), which includes an application and guidance, may be obtained on the TEA website at http://tea.texas.gov/Texas_Schools/Charter_Schools/.

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Charter School Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

Issued in Austin, Texas, on August 28, 2024.

TRD-202403998
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 28, 2024

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Request for Applications (RFA) Concerning Generation Thirty Open-Enrollment Charter Application (RFA #701-25-103) for Colleges and Universities

Filing Authority. Texas Education Code (TEC), §12.152

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under request for applications (RFA) #701-25-103 from eligible entities to operate open-enrollment charter schools. Eligible entities are limited to Texas public colleges or universities and Texas public junior colleges. The supervising faculty member with oversight of the college of education requesting the charter must attend one required applicant information session webinar. Two webinars will be held, one on Thursday, September 19, 2024, and one on Thursday, September 26, 2024. The public may participate in the webinars by registering in advance at https://zoom.us/webinar/register/WN_ElCV0OzZSqmFQUwyuvHggQ.

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly; however, failure to attend at least one of the mandatory webinars in its entirety will disqualify an applicant from further consideration during the Generation 30 application cycle.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. A public senior college or university, or public junior college open-enrollment charter school may operate on a campus of the public college or university, or public junior college or in the same county in which the public college or university, or public junior college is located and under certain circumstances elsewhere in the state.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. The electronic version of the completed application must be submitted to TEA by 5:00 p.m. (Central Time), Friday, December 20, 2024, to be eligible for review.

Project Amount. TEC, §12.106, specifies the following.

(a) Effective September 1, 2019, a charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is

based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and $125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29.

TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101 and §12.152. There is no cap on the number of charters approved under TEC, §12.152. The commissioner is scheduled to consider awards under #701-25-103 in May 2025.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication College or University Generation Thirty Open-Enrollment Charter Application (RFA #701-25-103), which includes an application and guidance, may be obtained on the TEA website at http://tea.texas.gov/Texas_Schools/Charter_Schools/.

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Charter School Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

TRD-202403997
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 28, 2024

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Request for Applications (RFA) Concerning Generation Thirty Open-Enrollment Charter Application (RFA #701-25-104) for Out-of-State High-Performing Entities

Filing Authority. Texas Education Code (TEC), §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under request for applications (RFA) #701-25-104 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities that are considered experienced operators and are operating or have operated a charter school in another portfolio or under another subchapter. At least one member of the applicant team may attend one optional applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, may attend. The webinar will be held, on Friday, September 20, 2024. The public may participate in the webinars by registering in advance at https://zoom.us/webinar/register/WN_vp1EJFJfS8iAS2y4JQVwEQ.

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability

system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. To be eligible for review, an electronic version of the completed application must be submitted to TEA by 5:00 p.m. on the submission date included in the timeline located inside of the Instruction and Guidance document.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and $125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-25-104 in accordance with the timeline detailed in the Instructions and Guidance Document. The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Thirty Open-Enrollment Charter Application (RFA #701-25-104), which includes an application and guidance, may be obtained on the TEA website at http://tea.texas.gov/Texas_Schools/Charter_Schools/.

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Charter School Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

TRD-202404001
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 28, 2024

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Request for Applications (RFA) Concerning Generation Thirty Open-Enrollment Charter Application (RFA #701-25-105) for In-State High-Performing Entities

Filing Authority. Texas Education Code (TEC), §12.101

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under request for applications (RFA) #701-25-105 from eligible entities to operate open-enrollment charter schools. Eligible entities include public institutions of higher education, private or independent institutions of higher education, organizations exempt from taxation under the Internal Revenue Code of 1986 (26 United States Code, §501(c)(3)), or governmental entities that are considered experienced operators and are operating or have operated a charter school in another portfolio or under another subchapter. At least one member of the applicant team may attend one optional applicant information session webinar. In addition, the board president of the sponsoring entity, if identified, may attend. The webinar will be held, on Friday, September 20, 2024. The public may participate in the webinars by registering in advance at https://zoom.us/webinar/register/WN_vp1EJFJfS8iAS2y4JQVwEQ.

Registrants will receive a confirmation email containing information about joining the webinar. The webinar will also be recorded and made available publicly.

Description. The purpose of an open-enrollment charter is to provide an alternative avenue for restructuring schools. An open-enrollment charter school offers flexibility and choice for educators, parents, and students. An approved open-enrollment charter school may be located in a facility of a commercial or nonprofit entity or in a school district facility. If the open-enrollment charter school is to be located in a school district facility, it must be operated under the terms established by the board of trustees or governing body of the school district in an agreement between the charter school and the district.

An open-enrollment charter school will provide instruction to students at one or more elementary or secondary grade levels as provided by the charter. An open-enrollment charter school must be nonsectarian in its programs, admissions, policies, employment practices, and all other operations and may not be affiliated with a sectarian school or religious institution. It is governed under the specifications of the charter and retains authority to operate for the term of the charter contingent on satisfactory student performance as defined by the state accountability system. An open-enrollment charter school does not have the authority to impose taxes.

An open-enrollment charter school is subject to federal laws and certain state laws governing public schools, including laws and rules relating to a criminal offense, requirements relating to the Texas Student Data System, Public Education Information Management System, criminal history records, high school graduation, special education programs, bilingual education, prekindergarten programs, extracurricular activities, health and safety provisions, and public school accountability. As stated in Texas Education Code (TEC), §12.1056, in matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district, and the employees and volunteers of the open-enrollment charter school or charter holder are immune from liability and suit to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee. TEC, §12.1057, states that an employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

Dates of Project. To be eligible for review, an electronic version of the completed application must be submitted to TEA by 5:00 p.m. on the submission date included in the timeline located inside of the Instruction and Guidance document.

Project Amount. TEC, §12.106, specifies the following.

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under TEC, Chapter 48, equal to the amount of funding per student in weighted average daily attendance, excluding the adjustment under TEC, §48.052, the funding under TEC, §§48.101, 48.110, 48.111, and 48.112, and enrichment funding under TEC, §48.202(a), to which the charter holder would be entitled for the school under TEC, Chapter 48, if the school were a school district without a tier one local share for purposes of TEC, §48.266.

(a-1) In determining funding for an open-enrollment charter school under subsection (a), the amount of the allotment under TEC, §48.102, is based solely on the basic allotment to which the charter holder is entitled and does not include any amount based on the allotment under TEC, §48.101.

(a-2) In addition to the funding provided by subsection (a), a charter holder is entitled to receive for the open-enrollment charter school an allotment per student in average daily attendance in an amount equal to the difference between the product of the quotient of the total amount of funding provided to eligible school districts under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the sum of one and the quotient of the total number of students in average daily attendance in school districts that receive an allotment under TEC, §48.101(b) or (c); and the total number of students in average daily attendance in school districts statewide; and $125.

(a-3) In addition to the funding provided by subsections (a) and (a-2), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under TEC, §48.202, based on the state average tax effort.

(a-4) In addition to the funding provided by subsections (a), (a-2), and (a-3), a charter holder is entitled to receive funding for the open-enrollment charter school under TEC, §48.110 and §48.112, and TEC, Chapter 48, Subchapter D, if the charter holder would be entitled to the funding if the school were a school district. In addition, under TEC §48.109(a) a charter school is entitled to an annual allotment equal to the basic allotment multiplied by 0.07 for each school year or a greater amount provided by appropriation for each identified student in a program for gifted and talented students that the charter school certifies to the commissioner as complying with Subchapter D, Chapter 29. TEC, §12.106(b), states that an open-enrollment charter school is entitled to funds that are available to school districts from TEA or the commissioner of education in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding. In addition, TEC, Chapter 12, states that an open-enrollment charter school may not charge tuition and must admit students based on a lottery if more students apply for admission than can be accommodated. An open-enrollment charter school must prohibit discrimination in admission policy on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. However, a charter school that specializes in the performing arts may require an applicant to audition. The charter may provide for the exclusion of a student who has a documented history of a criminal offense, juvenile court adjudication, or a discipline problem under TEC, Chapter 37, Subchapter A.

Selection Criteria. A complete description of selection criteria is included in the RFA.

The commissioner may approve open-enrollment charter schools as provided in TEC, §12.101. The commissioner is scheduled to consider awards under RFA #701-25-105 in accordance with the timeline detailed in the Instructions and Guidance Document.

The commissioner may approve applicants to ensure representation of urban, suburban, and rural communities; various instructional settings; innovative programs; diverse student populations and geographic regions; and various eligible entities. The commissioner will consider Statements of Impact from any school district whose enrollment is likely to be affected by the open-enrollment charter school. The commissioner may also consider the history of the sponsoring entity and the credentials and background of its board members. The commissioner may not award a charter to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered. The commissioner will not consider an application submitted by an individual that is substantially related to an entity that has within the preceding 10 years had a charter revoked, non-renewed, or surrendered.

Requesting the Application. An application must be submitted under commissioner guidelines to be considered. A complete copy of the publication Generation Thirty Open-Enrollment Charter Application (RFA #701-25-105), which includes an application and guidance, may be obtained on the TEA website at http://tea.texas.gov/Texas_Schools/Charter_Schools/.

Further Information. For clarifying information about the open-enrollment charter school application, contact the Division of Charter School Authorizing, Texas Education Agency, at (512) 463-9575 or charterapplication@tea.texas.gov.

TRD-202403999
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: August 28, 2024

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 7, 2024.** TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **October 7, 2024.** Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: 82 TRAVEL CENTER INCORPORATED; DOCKET NUMBER: 2023-0871-PST-E; IDENTIFIER: RN107790347; LOCATION: Gainesville, Cooke County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(B) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring; PENALTY: $3,375; ENFORCEMENT COORDINATOR: Faye Renfro, (512) 239-1833; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(2) COMPANY: AAM, INCORPORATED; DOCKET NUMBER: 2023-0405-PST-E; IDENTIFIER: RN100712223; LOCATION: Garland, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: $5,273; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 492-3096.

(3) COMPANY: ALABBAS GROUP INCORPORATED; DOCKET NUMBER: 2024-0828-PST-E; IDENTIFIER: RN102370582; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.50(a)(1)(A), by failing to provide release detection for the underground storage tank system; PENALTY: $2,625; ENFORCEMENT COORDINATOR: Danielle Fishbeck, (512) 239-5083; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: ALI GULLU CORPORATION; DOCKET NUMBER: 2024-0731-PST-E; IDENTIFIER: RN101556736; LOCATION: White Settlement, Tarrant County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to monitor underground storage tanks for releases at least once every 30 days; PENALTY: $2,625; ENFORCEMENT COORDINATOR: Danielle Fishbeck, (512) 239-5083; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: Asphalt Incorporated, LLC; DOCKET NUMBER: 2024-0544-EAQ-E; IDENTIFIER: RN102838448; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: paving company; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of a modification to an approved Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Transition Zone; PENALTY: $2,250; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(6) COMPANY: Cargill Meat Solutions Corporation; DOCKET NUMBER: 2024-0980-AIR-E; IDENTIFIER: RN102139599; LOCATION: Round Rock, Williamson County; TYPE OF FACILITY: refrigerated food processing facility; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an

emissions event; and 30 TAC §106.6(b), Permit by Rule Registration Number 140864, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: $3,001; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: $1,00; ENFORCEMENT COORDINATOR: Caleb Martin, (512) 239-2091; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: City of Killeen; DOCKET NUMBER: 2023-1221-WQ-E; IDENTIFIER: RN103174306; LOCATION: Killeen, Bell County; TYPE OF FACILITY: wastewater collection system; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent the unauthorized discharge of raw wastewater into or adjacent to any water in the state; PENALTY: $9,375; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: CSWR-Texas Utility Operating Company, LLC; DOCKET NUMBER: 2023-1653-PWS-E; IDENTIFIER: RN101276806; LOCATION: Granbury, Hood County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(q)(1)(A)(i), formerly 290.46(q)(2), by failing to institute special precautions as described in the flow chart found in 30 TAC §290.47(e) in the event of low distribution pressure and water outages; and 30 TAC §290.46(r), by failing to provide a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system at all times under normal operating conditions or a minimum of 20 psi during emergencies; PENALTY: $4,590; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(9) COMPANY: D.R. HORTON - TEXAS, LTD.; DOCKET NUMBER: 2024-0803-WQ-E; IDENTIFIER: RN111512752; LOCATION: Anahuac, Chambers County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4), TWC, §26.121(c), and Texas Pollutant Discharge Elimination System Construction General Permit Number TXR1558JJ, Part lll Section F.6(a), by failing to maintain best management practices in an effective operating condition, which resulted in an unauthorized discharge of pollutants; PENALTY: $3,000; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(10) COMPANY: Harris County Municipal Utility District Number 170; DOCKET NUMBER: 2024-0939-WQ-E; IDENTIFIER: RN102169778; LOCATION: Houston, Harris County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization to discharge stormwater associated with industrial activities; PENALTY: $6,000; ENFORCEMENT COORDINATOR: Monica Larina, (361) 881-6965; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, (361) 881-6900.

(11) COMPANY: KYNDRYL INCORPORATED; DOCKET NUMBER: 2024-0883-PST-E; IDENTIFIER: RN101538908; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to monitor underground storage tanks for releases at least once every 30 days; PENALTY: $2,625; ENFORCEMENT COORDINATOR: Danielle Fishbeck, (512) 239-5083; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: LEON SPRINGS GAS LLC; DOCKET NUMBER: 2024-0733-PST-E; IDENTIFIER: RN102436755; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: operator; RULES VIOLATED: 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the underground storage tank system; and 30 TAC §334.50(b)(1)(A), by failing to monitor underground storage tanks for releases at least once every 30 days; PENALTY: $5,250; ENFORCEMENT COORDINATOR: Danielle Fishbeck, (512) 239-5083; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: MOORE, RANDALL C; DOCKET NUMBER: 2024-1214-WOC-E; IDENTIFIER: RN106233794; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: $175; ENFORCEMENT COORDINATOR: Nancy Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: Northside Independent School District; DOCKET NUMBER: 2024-0534-EAQ-E; IDENTIFIER: RN104754304; LOCATION: Helotes, Bexar County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan or modifications to a plan prior to conducting regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: $9,750; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(15) COMPANY: OLD PAL CORPORATION; DOCKET NUMBER: 2024-1004-WQ-E; IDENTIFIER: RN106520190; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: aggregate production operation (APO); RULE VIOLATED: 30 TAC §342.25(d), by failing to renew the APO registration annually as regulated activities continued; PENALTY: $10,000; ENFORCEMENT COORDINATOR: Madison Stringer, (512) 239-1126; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(16) COMPANY: Robert Andrews dba PermaVista Trees, LLC; DOCKET NUMBER: 2024-0110-LII-E; IDENTIFIER: RN111841219; LOCATION: Brenham, Washington County; TYPE OF FACILITY: occupational licensing; RULES VIOLATED: 30 TAC §30.5(a), TWC, §37.003, and Texas Occupations Code, §1903.251, by failing to hold an irrigator license prior to selling, designing, installing, maintaining, altering, repairing, servicing, providing consulting services relating to an irrigation system, or connecting an irrigation system to any water supply; PENALTY: $867; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(17) COMPANY: Sonterra Medical Management Group, Incorporated and CPI/AHP Ridgewood San Antonio MOB Owner, L.P.; DOCKET NUMBER: 2024-0533-EAQ-E; IDENTIFIER: RN105282206; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: $1,925; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(18) COMPANY: SOUTHWESTERN BELL TELEPHONE COMPANY; DOCKET NUMBER: 2024-0525-PST-E; IDENTIFIER: RN102392453; LOCATION: Vidor, Orange County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to monitor underground storage tanks for releases at least once every 30 days; PENALTY: $2,625; ENFORCEMENT COORDINATOR: Danielle Fishbeck, (512) 239-5083; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(19) COMPANY: The Overlook NB LLC; DOCKET NUMBER: 2024-0964-EAQ-E; IDENTIFIER: RN111773958; LOCATION:

Canyon Lake, Comal County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Contributing and Recharge Zones; PENALTY: $9,000; ENFORCEMENT COORDINATOR: Megan Crinklaw, (512) 239-1129; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2545.

(20) COMPANY: Wildcatter Redi-Mix LLC; DOCKET NUMBER: 2023-0646-WQ-E; IDENTIFIER: RN111026803; LOCATION: Gunter, Grayson County; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §205.6 and TWC, §5.702, by failing to pay associated late fees for TCEQ Financial Administration Account Number 20503404; 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG112894, Part III, Section B(5)(b)(iii)(A)(1) and Part IV Numbers 1 and 3, by failing to prevent the unauthorized discharge of wastewater; 30 TAC §305.125(1) and TPDES General Permit Number TXG112894, Part III, Section B.7.b.ii.A., by failing to identify sampling locations on the Drainage Area Site Map; and 30 TAC §305.125(1) and §319.5(b) and TPDES General Permit Number TXG112894, Part III, Section B, Permit Requirements Number 1.c and Part IV, Standard Permit Conditions Number 7.f, by failing to collect and analyze effluent samples at the intervals specified in the permit; PENALTY: $5,394; ENFORCEMENT COORDINATOR: Nancy M. Sims, (512) 239-5053; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202403975
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: August 27, 2024

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Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for an Air Quality Permit Number 7706A

APPLICATION AND PRELIMINARY DECISION. NRG Texas Power LLC, 910 Louisiana Street, Houston, Texas 77002-4916, has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment to Air Quality Permit Number 7706A, which would authorize installation of a process water concentrator system at the WA Parish Electric Generating Station located at 2500 Y. U. Jones Road, Thompsons, Fort Bend County, Texas 77481. This application was processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. **AVISO DE IDIOMA ALTERNATIVO.** El aviso de idioma alternativo en espanol está disponible en https://www.tceq.texas.gov/permitting/air/newsourcereview/airpermits-pendingpermit-apps. This application was submitted to the TCEQ on April 11, 2024. The amendment will authorize an increase in emissions of the following air contaminants: carbon monoxide, hazardous air pollutants, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less and sulfur dioxide.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision to issue the permit because it meets all rules and regulations. The permit application, executive director's preliminary decision, and draft permit will be available for viewing and copying at the TCEQ central office, the TCEQ Houston regional office, and at the George Memorial Library, 1001 Golfview Drive, Richmond, Fort Bend County, Texas, beginning the first day of publication of this notice. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will hold a public meeting on this application because it was requested by local legislators. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application, and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, September 30, 2024 at 7:00 p.m.

George Ranch High School Auditorium

8181 FM 762 Road

Richmond, Texas 77469

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

You may submit additional written public comments within 30 days of the date of newspaper publication of this notice in the manner set forth in the AGENCY CONTACTS AND INFORMATION paragraph below, or by the date of the public meeting, whichever is later.

RESPONSE TO COMMENTS AND EXECUTIVE DIRECTOR ACTION. After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material or significant public comments. Because no timely hearing requests have been received, after preparing the response to comments, the executive director may then issue final approval of the application. **The response to comments, along with the executive director's decision on the application will be mailed to everyone who submitted public comments or is on a mailing list for this application, and will be posted electronically to the Commissioners' Integrated Database (CID).**

INFORMATION AVAILABLE ONLINE. When they become available, the executive director's response to comments and the final decision on this application will be accessible through the Commission's Web site at www.tceq.texas.gov/goto/cid. Once you have access to the CID using the above link, enter the permit number for this ap-

plication which is provided at the top of this notice. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-95.634166,29.475277&level=13.

MAILING LIST. You may ask to be placed on a mailing list to obtain additional information on this application by sending a request to the Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en Español, puede llamar al (800) 687-4040.

Further information may also be obtained from NRG Texas Power LLC at the address stated above or by calling Mr. Brian Green, Senior Environmental Manager at (412) 526-1824.

Notice Issuance Date: August 14, 2024

TRD-202403861
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 21, 2024

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Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Permit No. WQ0016216001

APPLICATION AND PRELIMINARY DECISION. Buffalo Hills Development, LLC, 5940 South West McGee Creek Road, Lane, Oklahoma 74555, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016216001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 850,000 gallons per day. TCEQ received this application on September 6, 2022.

The facility will be located approximately 0.4 miles north of the intersection of County Road 213 and Farm-to-Market Road 2258, in Ellis and Johnson Counties County, Texas 76084. The treated effluent will be discharged to an unnamed tributary, thence to Boggy Branch, thence to Armstrong Creek, thence to Cottonwood Creek, thence to North Fork Chambers Creek, thence to Chambers Creek Above Richland-Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and limited aquatic life use for both the Boggy Branch and Armstrong Creek. The designated uses for Segment No. 0814 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.086944,32.371944&level=18

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Nicholas P. Sims Library & Lyceum, 515 West Main Street, Waxahachie, in Ellis County Texas and at Alvarado Public Library, 210 North Baugh Street, Alvarado, in Johnson County Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The TCEQ will hold a public meeting on this application because it was requested by a local legislator.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, October 8, 2024 at 7:00 p.m.

Venus Civic Center

210 Walnut Street

Venus, Texas 76084

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.**

A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Buffalo Hills Development, LLC at the address stated above or by calling Mr. Rick Miskimon at (512) 546-5366.

Issuance Date: August 23, 2024

TRD-202404026
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Combined Notice of Public Meeting and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Permit No. WQ0016472001

APPLICATION AND PRELIMINARY DECISION. Hwy 3349 Holdings, LLC, 13620 Farm-to-Market 620 North, Building B, Suite 150, Austin, Texas 78717, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016472001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 960,000 gallons per day. TCEQ received this application on January 23, 2024.

The facility will be located approximately 0.42 miles northwest of the intersection of Farm-to-Market Road 1660 and Farm-to-Market Road 3349, in Williamson County, Texas 78634. The treated effluent will be discharged via pipe to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The designated uses for Segment No. 1244 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 TAC §307.5 and the TCEQ *Procedures to Implement the Texas State Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Brushy Creek which has been identified as high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link

to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.500277,30.491388&level=18

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Hutto City Hall, 500 West Live Oak Street, Hutto, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this application. The TCEQ will hold a public meeting on this application because it was requested by a local legislator.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period, and a Formal comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant, and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, September 26, 2024 at 7:00 p.m.

One Eleven East

111 East Street

Hutto, Texas 78634

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

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EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database

at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Hwy 3349 Holdings, LLC at the address stated above or by calling Ms. Jennifer Glaess, P.E., Pape-Dawson Engineers, Inc., at (512) 454-8711.

Issuance Date: August 16, 2024

TRD-202403863
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 21, 2024

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Correction of Error

The Texas Commission on Environmental Quality (TCEQ) published a Notice of a Proposed Renewal with Amendment of General Permit TXG 500000 for Quarries in Certain Water Quality Protection Areas in the August 9, 2024, issue of the *Texas Register* (49 TexReg 6047).

Due to an error by TCEQ, a provision of the general permit included in the "Draft General Permit" paragraph was cited incorrectly. The provision incorrectly included a comma between the words "construction" and "stormwater". The paragraph should read as follows:

DRAFT GENERAL PERMIT. The executive director has prepared a draft general permit renewal with amendments of an existing general permit that authorizes the discharge of process wastewater, mine dewatering, stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges from quarries located greater than one mile from a water body within certain water quality protection areas. No significant degradation of high-quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require regulated entities to submit a Notice of Intent to obtain authorization under the general permit.

TRD-202403988
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: August 27, 2024

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Enforcement Orders

An agreed order was adopted regarding AL-KARIMI, LLC, Docket No. 2022-0503-PST-E on August 27, 2024 assessing $5,257 in administrative penalties with $1,051 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Leander, Docket No. 2022-0526-EAQ-E on August 27, 2024 assessing $1,750 in administrative penalties with $350 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Earth, Docket No. 2022-0529-MWD-E on August 27, 2024 assessing $2,550 in administrative penalties with $510 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Alice, Docket No. 2022-0575-AIR-E on August 27, 2024 assessing $5,250 in administrative penalties with $1,050 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2022-1071-PWS-E on August 27, 2024 assessing $357 in administrative penalties with $71 deferred. Information concerning any aspect of this order may be obtained by contacting Christiana McCrimmon, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Brazos Bend Storage and RV Park, LLC, Docket No. 2022-1123-PWS-E on August 27, 2024 assessing $2,313 in administrative penalties with $462 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BBR Water Company, Docket No. 2022-1292-PWS-E on August 27, 2024 assessing $4,158 in administrative penalties with $831 deferred. Information concerning any aspect of this order may be obtained by contacting Ashley Lemke, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Department of Criminal Justice, Docket No. 2022-1410-PWS-E on August 27, 2024 assessing $6,105 in administrative penalties with $1,221 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Frederic M. Moseley, Sr. dba Countryside RV Resort and Melanie Moseley dba Countryside RV Resort, Docket No. 2022-1550-PWS-E on August 27, 2024 assessing $2,500 in administrative penalties with $500 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Richard Lee Burch dba Burch Water Systems, Docket No. 2022-1571-PWS-E on August 27, 2024 assessing $3,025 in administrative penalties with $605 deferred. Information concerning any aspect of this order may be obtained by contacting Nick Lohret-Froio, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Anton, Docket No. 2023-0128-PWS-E on August 27, 2024 assessing $312 in administrative penalties with $62 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Antler Oaks Lodge Properties, LLC, Docket No. 2023-0231-PWS-E on August 27, 2024 assessing $7,075 in administrative penalties with $1,415 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SHREE SHIVSHAKTI LLC dba Ali Discount Tobacco, Docket No. 2023-0402-PST-E on August 27, 2024 assessing $4,500 in administrative penalties with $900 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegelu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding H-E-B, LP, Docket No. 2023-0532-EAQ-E on August 27, 2024 assessing $3,250 in administrative penalties with $650 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NORTHLAKE PARTNERS, LTD., Docket No. 2023-0573-MWD-E on August 27, 2024 assessing $4,875 in administrative penalties with $975 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding M H Jiwani, Inc., Docket No. 2023-0640-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Cal's Convenience, Inc., Docket No. 2023-0641-PST-E on August 27, 2024 assessing $5,250 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Denison, Docket No. 2023-0658-PWS-E on August 27, 2024 assessing $1,800 in administrative penalties with $360 deferred. Information concerning any aspect of this order may be obtained by contacting Kaisie Hubschmitt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Eagle Creek Storage, LLC, Docket No. 2023-0735-WR-E on August 27, 2024 assessing $2,000 in administrative penalties with $400 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Susan Girard and Sherry Buescher, Docket No. 2023-0736-EAQ-E on August 27, 2024 assessing $6,900 in administrative penalties with $1,380 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS Calabrian Corporation, Docket No. 2023-0811-AIR-E on August 27, 2024 assessing $2,450 in administrative penalties with $490 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Diamondback E&P LLC, Docket No. 2023-0843-AIR-E on August 27, 2024 assessing $6,001 in administrative penalties with $1,200 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CIRCLE K STORES INC. dba Valero Corner Store 2018, Docket No. 2023-0996-PST-E on August 27, 2024 assessing $1,976 in administrative penalties with $395 deferred. Information concerning any aspect of this order may be obtained by contacting Ramyia Wendt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding COLD WAY TRANSPORTATION LLC, Docket No. 2023-1005-PST-E on August 27, 2024 assessing $2,000 in administrative penalties with $400 deferred. Information concerning any aspect of this order may be obtained by contacting Eresha DeSilva, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSWR-Texas Utility Operating Company, LLC, Docket No. 2023-1270-PWS-E on August 27, 2024 assessing $7,100 in administrative penalties with $1,420 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Granberg Bulk Water Service LLC, Docket No. 2023-1295-PWS-E on August 27, 2024 assessing $450 in administrative penalties with $90 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rowena Water Supply Corporation, Docket No. 2023-1329-PWS-E on August 27, 2024 assessing $6,550 in administrative penalties with $1,310 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ZHISU GROUP LLC, Docket No. 2023-1451-PWS-E on August 27, 2024 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Two States Partners, LLC, Docket No. 2023-1481-PWS-E on August 27, 2024 assessing $4,648 in administrative penalties with $929 deferred. Information concern-

ing any aspect of this order may be obtained by contacting Mason Demasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AUS-TEX SANDBLASTING & COATINGS, INC., Docket No. 2023-1519-AIR-E on August 27, 2024 assessing $3,750 in administrative penalties with $750 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SLOTT CONSTRUCTION COMPANY, INC., Docket No. 2023-1520-AIR-E on August 27, 2024 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding StoneBridge RV Park LLC, Docket No. 2023-1522-PWS-E on August 27, 2024 assessing $950 in administrative penalties with $190 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSWR-Texas Utility Operating Company, LLC, Docket No. 2023-1536-PWS-E on August 27, 2024 assessing $1,860 in administrative penalties with $372 deferred. Information concerning any aspect of this order may be obtained by contacting Daphne Greene, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Envirotein, LLC, Docket No. 2023-1553-AIR-E on August 27, 2024 assessing $5,313 in administrative penalties with $1,062 deferred. Information concerning any aspect of this order may be obtained by contacting Matthew Perez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-1576-PWS-E on August 27, 2024 assessing $1,800 in administrative penalties with $360 deferred. Information concerning any aspect of this order may be obtained by contacting Hannah Shakir, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALTAF FOOD STORE, INC. dba Pennysaver Foodstore, Docket No. 2023-1613-PST-E on August 27, 2024 assessing $3,375 in administrative penalties with $675 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding American Ckritical Energy Systems, Inc., Docket No. 2023-1619-PWS-E on August 27, 2024 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Mzs Enterprises Inc., Docket No. 2023-1624-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Danielle Fishbeck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Wolfe City, Docket No. 2023-1630-PWS-E on August 27, 2024 assessing $3,927 in administrative penalties with $785 deferred. Information concerning any aspect of this order may be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding HILCO UNITED SERVICES, INC., Docket No. 2023-1634-MWD-E on August 27, 2024 assessing $6,750 in administrative penalties with $1,350 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSWR-Texas Utility Operating Company, LLC, Docket No. 2023-1651-PWS-E on August 27, 2024 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Christiana McCrimmon, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding On-Site Concrete Solutions, LLC, Docket No. 2023-1662-AIR-E on August 27, 2024 assessing $5,000 in administrative penalties with $1,000 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2023-1669-PWS-E on August 27, 2024 assessing $1,125 in administrative penalties with $225 deferred. Information concerning any aspect of this order may be obtained by contacting Margaux Ordoveza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SOUTH NEWTON WATER SUPPLY CORPORATION, Docket No. 2023-1676-PWS-E on August 27, 2024 assessing $6,750 in administrative penalties with $1,350 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez Scott, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Advanced Construction And Development Llc, Docket No. 2023-1690-AIR-E on August 27, 2024 assessing $3,937 in administrative penalties with $787 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jack Neely dba Heights Water, Docket No. 2023-1695-PWS-E on August 27, 2024 assessing $1,984 in administrative penalties with $396 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Caney Creek Municipal Utility District of Matagorda County, Docket No. 2023-1714-PWS-E on August 27, 2024 assessing $2,423 in administrative penalties with $484 deferred. Information concerning any aspect of this order may

be obtained by contacting Mason DeMasi, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Water Utilities, L.P., Docket No. 2023-1715-PWS-E on August 27, 2024 assessing $750 in administrative penalties with $150 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lake Municipal Utility District, Docket No. 2023-1730-MWD-E on August 27, 2024 assessing $6,375 in administrative penalties with $1,275 deferred. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Glenn Thurman, Inc., Docket No. 2023-1750-AIR-E on August 27, 2024 assessing $1,625 in administrative penalties with $325 deferred. Information concerning any aspect of this order may be obtained by contacting Trenton White, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Nuway Homes Texas, L.P., Docket No. 2023-1752-WQ-E on August 27, 2024 assessing $1,875 in administrative penalties with $375 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Van Ruiten Dairy L.L.C. dba Van Ruiten Dairy Partners, Docket No. 2023-1755-AGR-E on August 27, 2024 assessing $2,000 in administrative penalties with $400 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Off Duty Powder Works Inc, Docket No. 2023-1784-AIR-E on August 27, 2024 assessing $2,000 in administrative penalties with $400 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Danny Garcia, Docket No. 2024-0025-OSI-E on August 27, 2024 assessing $505 in administrative penalties with $101 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 2021 FII Bulverde, LLC, Docket No. 2024-0083-EAQ-E on August 27, 2024 assessing $1,875 in administrative penalties with $375 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Syed Gardezi and Anila Gardezi, Docket No. 2024-0184-OSS-E on August 27, 2024 assessing $500 in administrative penalties with $100 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding D & G STORE LLC dba One Stop, Docket No. 2024-0221-PST-E on August 27, 2024 assessing $3,750 in administrative penalties with $750 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Fishbeck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ARHAMNA CORPORATION dba Arhamna Food Mart, Docket No. 2024-0267-PST-E on August 27, 2024 assessing $3,375 in administrative penalties with $675 deferred. Information concerning any aspect of this order may be obtained by contacting Faye Renfro, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding D's Concrete World, LLC, Docket No. 2024-0301-WQ-E on August 27, 2024 assessing $2,625 in administrative penalties with $525 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ACORN RANCH LLC, Docket No. 2024-0337-WQ-E on August 27, 2024 assessing $6,150 in administrative penalties with $1,230 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Smith Hill Enterprises, LLC, Docket No. 2024-0378-EAQ-E on August 27, 2024 assessing $7,500 in administrative penalties with $1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SA BIGHAUSLAND, LLC, Docket No. 2024-0407-EAQ-E on August 27, 2024 assessing $1,875 in administrative penalties with $375 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation order was adopted regarding CommonSpirit Health, Docket No. 2024-0451-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Fishtel Investment Inc, Docket No. 2024-0611-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Danielle Fishbeck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ingram Readymix No. 101, L.L.C., Docket No. 2024-0621-WQ-E on August 27, 2024 assessing $6,750 in administrative penalties with $1,350 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Parkview Petrol LLC, Docket No. 2024-0751-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this citation

may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Continental Resources, Inc., Docket No. 2024-0792-AIR-E on August 27, 2024 assessing $5,951 in administrative penalties with $1,190 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Arkema Inc., Docket No. 2024-0804-AIR-E on August 27, 2024 assessing $6,370 in administrative penalties with $1,274 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Iman Marketing Inc, Docket No. 2024-0814-PST-E on August 27, 2024 assessing $2,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Fishbeck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field ciation was adopted regarding SunSunny, Inc., Docket No. 2024-0918-PST-E on August 27, 2024 assessing $1,750 in administrative penalties. Information concerning any aspect of this ciation may be obtained by contacting Adriana Fuentes, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field ciation was adopted regarding 4 T Enterprises LLC, Docket No. 2024-1003-WQ-E on August 27, 2024 assessing $875 in administrative penalties. Information concerning any aspect of this ciation may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Rocky E. Gueta, Docket No. 2024-1014-WOC-E on August 27, 2024 assessing $175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Margaux Ordoveza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CSB Contractors Inc., Docket No. 2024-1113-WQ-E on August 27, 2024 assessing $875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202404022
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Enforcement Orders

An agreed order was adopted regarding Stakeholder Gas Services, LLC, Docket No. 2020-0294-AIR-E on August 28, 2024 assessing $265,906 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lyondell Chemical Company, Docket No. 2021-0188-AIR-E on August 28, 2024 assessing $74,366 in administrative penalties with $6,863 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Stolthaven Houston, Inc., Docket No. 2021-0251-AIR-E on August 28, 2024 assessing $42,006 in administrative penalties with $8,401 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Air Products LLC, Docket No. 2021-1087-AIR-E on August 28, 2024 assessing $37,500 in administrative penalties with $7,500 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Lubrizol Corporation, Docket No. 2021-1268-AIR-E on August 28, 2024 assessing $83,550 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Royal Valley Utilities, Inc., Docket No. 2021-1557-MWD-E on August 28, 2024 assessing $24,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Ranger Ready Mix, LLC, Docket No. 2021-1597-WQ-E on August 28, 2024 assessing $22,010 in administrative penalties with $4,402 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Premcor Refining Group Inc., Docket No. 2021-1634-AIR-E on August 28, 2024 assessing $48,413 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ETC Texas Pipeline, Ltd., Docket No. 2021-1645-AIR-E on August 28, 2024 assessing $141,550 in administrative penalties with $28,310 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PERMIAN LODGING PECOS, LLC, Docket No. 2022-0140-MLM-E on August 28, 2024 assessing $27,067 in administrative penalties with $5,413 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AZTEC WASTE, INC., Docket No. 2022-0169-MSW-E on August 28, 2024 assessing $24,074 in ad-

ministrative penalties with $4,814 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SWG Pipeline, L.L.C., Docket No. 2022-0200-AIR-E on August 28, 2024 assessing $28,125 in administrative penalties with $5,625 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding G S C J Inc, Docket No. 2022-0260-PST-E on August 28, 2024 assessing $24,321 in administrative penalties with $4,864 deferred. Information concerning any aspect of this order may be obtained by contacting Karolyn Kent, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ARCOSA LWS, LLC, Docket No. 2022-0625-AIR-E on August 28, 2024 assessing $36,491 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MSCS, Ltd., Docket No. 2022-0662-WQ-E on August 28, 2024 assessing $11,382 in administrative penalties with $2,276 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Tri-Speed Investment Inc, Docket No. 2022-0953-PST-E on August 28, 2024 assessing $10,458 in administrative penalties with $2,091 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegelu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Dunadan Properties, LLC, Docket No. 2022-1100-PWS-E on August 28, 2024 assessing $16,203 in administrative penalties with $3,240 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chrisco Asphalt, LLC, Docket No. 2022-1127-MLM-E on August 28, 2024 assessing $8,125 in administrative penalties with $1,625 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Tokai Carbon CB Ltd., Docket No. 2022-1476-AIR-E on August 28, 2024 assessing $275,002 in administrative penalties with $55,000 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Flint Hills Resources Corpus Christi, LLC, Docket No. 2022-1543-AIR-E on August 28, 2024 assessing $60,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Maple Energy Holdings, LLC, Docket No. 2022-1573-AIR-E on August 28, 2024 assessing $7,752 in administrative penalties with $1,550 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Scout Energy Management LLC, Docket No. 2022-1636-AIR-E on August 28, 2024 assessing $3,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GCC PERMIAN, LLC, Docket No. 2022-1685-AIR-E on August 28, 2024 assessing $28,375 in administrative penalties with $5,675 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Brenda Huffman dba Margies MHP and Ronald R. Huffman dba Margies MHP, Docket No. 2023-0645-PWS-E on August 28, 2024 assessing $5,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Shell Pipeline Company LP, Docket No. 2023-0838-AIR-E on August 28, 2024 assessing $9,438 in administrative penalties with $1,887 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Marathon Oil EF LLC, Docket No. 2023-0839-AIR-E on August 28, 2024 assessing $35,000 in administrative penalties with $7,000 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding South Texas Frac LLC, Docket No. 2023-0859-AIR-E on August 28, 2024 assessing $9,000 in administrative penalties with $1,800 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Singhs Vietnamese LLC, Docket No. 2023-1018-EAQ-E on August 28, 2024 assessing $9,750 in administrative penalties with $1,950 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Canyon Creek Custom Homes LLC, Docket No. 2023-1035-WQ-E on August 28, 2024 assessing $10,875 in administrative penalties with $2,175 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding D D T EXCAVATING AND SITE WORK, INC., Docket No. 2023-1155-WQ-E on August 28, 2024 assessing $15,563 in administrative penalties with $3,112 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kasparian Underground, LLC, Docket No. 2023-1354-WQ-E on August 28, 2024 assessing $25,075 in administrative penalties with $5,015 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kasparian Underground, LLC, Docket No. 2023-1356-WQ-E on August 28, 2024 assessing $25,075 in administrative penalties with $5,015 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding YES Estates TX, LLC, Docket No. 2023-1408-MWD-E on August 28, 2024 assessing $10,500 in administrative penalties with $2,100 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MIDWAY WATER UTILITIES, INC., Docket No. 2023-1419-PWS-E on August 28, 2024 assessing $3,450 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding KM Liquids Terminals LLC, Docket No. 2023-1523-AIR-E on August 28, 2024 assessing $9,450 in administrative penalties with $1,890 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hockley Oilfield Supply, LLC, Docket No. 2023-1574-MLM-E on August 28, 2024 assessing $7,913 in administrative penalties with $1,582 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Bartley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Deer Park Refining Limited Partnership, Docket No. 2023-1578-AIR-E on August 28, 2024 assessing $125,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of De Leon, Docket No. 2023-1631-PWS-E on August 28, 2024 assessing $2,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Somervell County Water District, Docket No. 2023-1668-PWS-E on August 28, 2024 assessing $5,250 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rachel Vulk, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Freeport LNG Development, L.P., Docket No. 2023-1670-AIR-E on August 28, 2024 assessing $330,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lake Livingston Water Supply Corporation, Docket No. 2023-1675-PWS-E on August 28, 2024 assessing $2,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Hannah Shakir, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding East Montgomery County MUD 5, Docket No. 2023-1691-MWD-E on August 28, 2024 assessing $10,313 in administrative penalties with $2,062 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding T&L Fort Worth, LLC dba Servpro Lake Arlington, Docket No. 2023-1697-IHW-E on August 28, 2024 assessing $11,813 in administrative penalties with $2,362 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Miramar Brands Inc. dba 7-Eleven 35401, Docket No. 2023-1773-PST-E on August 28, 2024 assessing $10,051 in administrative penalties with $2,010 deferred. Information concerning any aspect of this order may be obtained by contacting Celicia Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Langham Creek Utility District, Docket No. 2024-0081-MWD-E on August 28, 2024 assessing $13,050 in administrative penalties with $2,610 deferred. Information concerning any aspect of this order may be obtained by contacting Taylor Williamson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CONATSER CONSTRUCTION TX, L.P., Docket No. 2024-0229-WQ-E on August 28, 2024 assessing $32,055 in administrative penalties with 6,411 deferred. Information concerning any aspect of this order may be obtained by contacting Nancy Sims, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Products Operating LLC, Docket No. 2024-0292-AIR-E on August 28, 2024 assessing $150,150 in administrative penalties with $30,030 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 717 Construction Services, LLC, Docket No. 2024-0350-WQ-E on August 28, 2024 assessing $9,465 in administrative penalties with $1,893 deferred. Information

concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blue Cube Operations LLC, Docket No. 2024-0416-AIR-E on August 28, 2024 assessing $50,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DOREX, INC., Docket No. 2024-0566-MSW-E on August 28, 2024 assessing $15,000 in administrative penalties with $3,000 deferred. Information concerning any aspect of this order may be obtained by contacting Tiffany Chu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DENTON SAND FARM, LLC, Docket No. 2024-0569-WQ-E on August 28, 2024 assessing $10,000 in administrative penalties with $2,000 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding HAWKINS FAMILY PARTNERS, L.P. and Hawkins and Mayo, LLC, Docket No. 2024-0644-MLM-E on August 28, 2024 assessing $57,500 in administrative penalties with $11,500 deferred. Information concerning any aspect of this order may be obtained by contacting Megan Crinklaw, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Circle S East Municipal Utility District Of Ellis County, Docket No. 2024-0675-DIS on August 28, 2024 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Allie Soileau, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Quadvest Lp, Docket No. 2024-0677-MWD on August 28, 2024 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harrison Malley, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kaufman County Fresh Water Supply District 3, Docket No. 2024-0954-DIS on August 28, 2024 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harrison Malley, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Leprino Foods Company, Docket No. 2024-1181-IWD on August 28, 2024 assessing $0 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kathy Humphreys, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202404023
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of an Amendment to a Certificate of Adjudication Application No. 12-4345B

BASF Corporation, 602 Copper Road, Freeport, Texas, 77541-3001, seeks to amend Certificate of Adjudication No. 12-4345B to authorize additional purposes of use, places of use, and an exempt interbasin transfer to the adjacent San Jacinto-Brazos Coastal Basin. BASF Corporation also seeks to authorize the use of the bed and banks of Manos Creek and the Brazos River to convey 10,000 acre-feet of water per year released from Lake Creek Reservoir for subsequent diversion downstream and to use the bed and banks of Oyster Creek and Buffalo Camp Bayou to convey water diverted from the Brazos River in accordance with the authorizations in Certificate of Adjudication No. 12-5328, as amended. More information on the application and how to participate in the permitting process is given below.

The application and partial fees were received on October 11, 2021. Additional fees were received on December 6, 2021. The application was declared administratively complete and filed with the Office of the Chief Clerk on December 14, 2021.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would contain special conditions including, but not limited to, maintaining an accounting plan. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/view-wr-pend-apps

Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by August 09, 2024. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed by September 16, 2024. The Executive Director can consider an approval of the application unless a written request for a contested case hearing is filed by September 16, 2024.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[*I/we*] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105,

TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at https://www14.tceq.texas.gov/epic/eComment/ by entering ADJ 2814 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al http://www.tceq.texas.gov.

TRD-202403864
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 21, 2024

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Notice of District Petition

Notice issued August 16, 2024

TCEQ Internal Control No. D-05232024-057: VORWERK FARMS, LLC, a Texas limited liability company (Petitioner) filed a petition for the creation of Williamson County Municipal Utility District No. 52 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 and Article III, §52 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is no lienholder on the property other than Texas Farm Credit Services, FLCA; (3) the proposed District will contain approximately 152.29 acres of land, more or less, located entirely within Williamson County, Texas; (4) no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city, town or village in Texas.

The petition further states that the proposed District will (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) to collect, transport, process, dispose of and control domestic, and commercial wastes; (3) to gather, conduct, divert, abate, amend and control local stormwater or other local harmful excesses of water in the District; and (4) to purchase, construct, acquire, improve, or extend inside or outside or its boundaries such additional facilities, systems, plants and enterprises, road facilities, and park and recreational facilities, as shall be consonant with the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners, from the information available at this time, that the cost of said project will be approximately $43,255,000 ($35,200,000 for water, wastewater, and drainage facilities, $1,955,000 for recreational and $6,100,000 for road facilities).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202403857
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 21, 2024

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Notice of District Petition

Notice issued August 19, 2024

TCEQ Internal Control No. D-07302024-073 GF 2977 LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Fort Bend County Water Control and Improvement District No. 12 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and Chapter 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the Petitioner is the only holder of liens against the land to be included in the District; (3) the proposed District will contain approximately 1,490.25 acres located within Fort Bend County, Texas; and (4) all of the area within the proposed District is within the extraterritorial jurisdiction of the Town of Thompsons, Texas and is not within the corporate limits or extraterritorial jurisdiction of any other city. The petition further states that the nature of the work to be done by the District at the present time is the purchase, construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District to collect, transport, process, dispose of and control all domestic, industrial or commercial wastes, whether in fluid, solid or composite state, and to gather conduct, divert and control local storm waters or other harmful excess of water, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, to which reference is hereby made for more detailed description. The District also intends to purchase interests in land and purchase, construct, acquire, improve, ex-

tend, maintain and operate improvements, facilities and equipment for the purpose of providing recreational facilities, all as more particularly described in the aforementioned engineer's report, to which reference is hereby made for more detailed description. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $57,250,000 for drainage and detention facilities and $33,250,000 for recreational facilities.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202403858

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: August 21, 2024

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Notice of District Petition

Notice issued August 21, 2024 TCEQ Internal Control No. D-06172024-032; 306 Properties, LP., a Texas limited partnership (Petitioner), filed a petition for the creation of Comal County Municipal Utility District No. 5 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Plains Capital Bank holds title to a portion of land to be included in the proposed District; (2) there is a lienholder on the property to be included in the proposed District; (3) the proposed District will contain approximately 621.26 acres located within Comal County, Texas; and (4) the land within the proposed District is not located within the corporate boundaries or extraterritorial jurisdiction of any municipality.

The petition further states that the proposed District will: (1) purchase, design, construct, acquire, improve, extend inside or outside of its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the proposed District is organized. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately $89,200,000 ($66,000,000 for water, wastewater, and drainage plus $23,200,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404016

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 21, 2024 TCEQ Internal Control No. D-04222024-060; SA Tomahawk Rock, LP, Lennar Homes of Texas Land and Construction, Ltd. and AG EHC II (LEN) MULTI STATE 4, LLC, (Petitioners) filed a petition with the Texas Commission on Environmental Quality (TCEQ) for the annexation of land into Guadalupe County Municipal Utility District No. 6 (District) under Local Government Code Section (§) 42.042 and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to all the property in the proposed annexation area to be included in the District; (2) there are no lienholders on the property to be annexed into the District; (3) the proposed property annexation will consist of (3) separate land tracts totaling approximately 244.823 acres located within Guadalupe County; and (4) all of the land within the proposed property annexation is within the extraterritorial jurisdiction of the City of Cibolo, Texas (City). The property proposed for annexation is near the western boundary of the district. Access to the annexation tracts will be by Green Valley Road to the north. In accordance with Local Government Code §§42.0425 and 42.042, a petition was submitted to the City, requesting the City's consent to the annexation of land into the District. Information provided indicates that the City did not consent to the inclusion of the land into the District's area. After the 90-day period passed without receiving the City's consent to the annexation, a petition was submitted to the City requesting the City provide water and sanitary sewer services to the proposed annexation area. The 120-day period for reaching a mutually agreeable contract expired and the information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Local Government Code §42.042, failure to execute such an agreement constitutes authorization for the Petitioners to initiate proceedings to include the proposed annexation area into the District.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404017
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 21, 2024 TCEQ Internal Control No. D-07222024-045; Buda Cole Springs JV, LP, a Texas limited partnership (Petitioner), filed a petition for the creation of Buda Municipal Utility District No. 2 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 98.96 acres located within Hays County, Texas; (4) the land within the proposed District is located within the corporate limits of the City of Buda (City); and (5) the City has consented to the creation of the District. The petition further states that the proposed District will purchase, design, construct, acquire, own improve, extend, maintain, operate, repair, convey, finance, and issue bonds for (1) an adequate and efficient water works and sanitary sewer system for domestic and commercial purposes; (2) works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and control, abate and amend local storm waters or other harmful excesses of water; (3) roads and improvements in aid of roads; and (4) such other additional facilities, systems, plants, and enterprises as are consistent with any or all of the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately $33,505,000 ($24,185,000 for water, wastewater, and drainage plus $9,320,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property rel-

ative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404018
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 21, 2024 TCEQ Internal Control No. D-08062024-010: BL 12 Holdings, LLC, a Texas limited liability company, (Petitioner) filed a petition for creation of Caldwell County Municipal Utility District No. 5 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 424.213 acres located within Caldwell County, Texas; and (4) none of the land within the proposed District is wholly within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve and extend of a water works and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excess waters; and, (4) such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, systems, plants and enterprises as shall be consistent with all purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $61,150,000 ($52,500,000 for water, wastewater, and drainage plus $8,650,000 for roads).

INFORMATION SECTION To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404019
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 21, 2024

TCEQ Internal Control No. D-03182024-040: WB West Alvin Land, LLC., a Texas limited company (Petitioner), filed a petition for the creation of Preservation Creek Municipal Utility District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, § 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority of land to be included in the proposed District; (2) there are two lienholders, Brazoria Meadows, L.P a Texas limited partnership and Star State Land L.P a Texas limited partnership, on the property to be included in the proposed District and information provided indicates that the lienholders consent to the creation of the proposed District; (3) the proposed District will contain approximately 2,962.37 acres located within Brazoria County, Texas; and (4) the land within the proposed District is located within the corporate limits or the extraterritorial jurisdiction of the City of Alvin (City). The petition further states that the proposed District will: (1) The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide

more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, enterprises, road facilities, and park and recreational facilities as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately $370,000,000 ($300,000,000 for water, wastewater, and drainage $15,000,000 District's Park and recreational facilities plus $55,000,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404020
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 22, 2024

TCEQ Internal Control No. D-08062024-007; The majority landowners, Bobbie Williams, Maurice Williams, Kimberly Williams Barnett, and Kristi Williams Neyes (Petitioners) filed a petition for creation of Southeast Collin County Municipal Utility District No. 1 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and Chapter 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) Veritex Community Bank is the only holder of liens against the land to be included in the District; (3) the proposed District will contain approximately 207.336 acres located within Collin County, Texas; and (4) all of the area within the proposed District is wholly located within the Collin County unincorporated area and is not located within the corporate limits or extraterritorial jurisdiction of any city or town.

The petition further states that the nature of the work to be done by the District at the present time is the construction, maintenance and operation of a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; the construction, maintenance and operation of a sanitary sewer collection, treatment and disposal system, for domestic and commercial purposes; the construction, installation, maintenance, purchase and operation of drainage and roadway facilities and improvements; and the construction, installation, maintenance, purchase and operation of facilities, systems, plants and enterprises of such additional facilities as shall be consonant with the purposes for which the District is organized. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $84,500,000 for waterworks, sanitary sewer, drainage, storm sewer and roadway systems.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404021

Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of District Petition

Notice issued August 19, 2024

TCEQ Internal Control No. D-07242024-062 Hero Way Development LLC, a Delaware limited liability company (Petitioner) filed a petition for creation of Hero Way West Municipal Utility District (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and Chapter 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the Petitioner represents that there are no lienholders on the land; (3) the proposed District will contain approximately 111.39 acres located within Travis County, Texas; and (4) none of the land is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the nature of the work to be done by the District at the present time is the purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes, and the construction, acquisition, improvement, extension, maintenance, and operation of works improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of water, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, to which reference is hereby made for more detailed description, and such other purchase, construction, acquisition, improvement, maintenance and operation of such additional facilities, systems, plants and enterprises, road facilities, and park and recreation facilities, as shall be consistent with all of the purposes for which the District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $18,025,000 for water, wastewater, drainage. It is noted that the engineering report indicates that the estimated cost of said project will be approximately $24,535,000 ($18,025,000 for water, wastewater, and drainage, $5,260,000 for roads, and $1,250,000 for recreation).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202404028
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of Intent to Perform a Removal Action at the Poly-Cycle Industries, Inc. Proposed State Superfund Site, in Tecula, Cherokee County, Texas

The executive director of the Texas Commission on Environmental Quality (TCEQ) hereby issues public notice of intent to perform a removal action, in accordance with Texas Health and Safety Code (THSC), §361.133(i), for the Poly-Cycle Industries, Inc., Tecula proposed state Superfund site (the site).

The site, including all land, structures, appurtenances, and other improvements, is approximately 35 acres, located at the southeast corner of the intersection of Farm-to-Market Road 2064 (FM 2064) and County Road 4216 (CR 4216) in Cherokee County, Texas. The site also includes any areas where hazardous substances have come to be located as either a direct or indirect result of releases of hazardous substances from the site.

The site was proposed for listing to the state Superfund registry in the July 25, 2003, issue of the *Texas Register* (28 TexReg 5910).

The site is a former lead-acid battery recycling facility that operated from at least 1982 to March 1990. The former process area included tanks, settling ponds, and waste piles of liquid and solid wastes from industrial processes. Improper waste management practices resulted in the release of arsenic and lead into the environment. Arsenic and lead are hazardous substances listed in 40 Code of Federal Regulations §302.4(a) and, therefore, are hazardous substances under the Texas Solid Waste Disposal Act (THSC, Chapter 361). An EPA Time Critical Removal Action in 1991 placed the most highly contaminated soil and debris into 2,200 1.7-cubic yard polypropylene bags (supersacks) which were stored onsite in two metal storage buildings. The supersacks are degrading and may release contaminated soil and debris to the environment.

The removal action will consist of measures to mitigate the potential threat of a release of hazardous substances to the environment. The materials stored in supersacks will be removed from the buildings and transported for offsite disposal. The removal action is appropriate to protect human health and the environment, can be completed without

extensive investigation and planning, and will achieve a significant cost reduction for the site.

The agency has established a site record repository at the Jacksonville Public Library, located at 526 E. Commerce Street, Jacksonville, Texas, 75766, (903) 586-7664. Requests to obtain copies of TCEQ's public records concerning the site may be submitted to the Central File Room through e-mail, at *cfrreq@tceq.texas.gov.* TCEQ Central File Room electronic records are also accessible online, at *https://www.tceq.texas.gov/agency/data/records-services.* Additional files may be obtained by contacting the TCEQ project manager for the site, Midori Campbell, P.E., at (512) 239-2077. Also, for additional assistance obtaining site documents, you may contact John Flores, community relations liaison, at (800) 633-9363 or email your request to superfnd@tceq.texas.gov. Information is also available on the site's webpage, at *https://www.tceq.texas.gov/remediation/superfund/state/polycycl-tecula.html.*

TRD-202403976
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: August 27, 2024

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Notice of Opportunity to Comment on an Agreed Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Order (AO) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AO, the commission shall allow the public an opportunity to submit written comments on the proposed AO. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 7, 2024.** TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of the proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 7, 2024.** The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing.**

(1) COMPANY: B MULTANI LLC. dba Shell Express; DOCKET NUMBER: 2022-0911-PST-E; TCEQ ID NUMBER: RN105644801; LOCATION: 5203 Eisenhauer Road, San Antonio, Bexar County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the UST in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; and 30 TAC §334.606, by failing to maintain required operator training certification records on-site and make them available for inspection upon request by agency personnel; PENALTY: $5,575; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-202403977
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: August 27, 2024

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Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 7, 2024.** The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 7, 2024.** The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing.**

(1) COMPANY: DEANVILLE WATER SUPPLY CORPORATION; DOCKET NUMBER: 2022-1593-MLM-E; TCEQ ID NUMBER: RN101442085; LOCATION: 6535 Farm-to-Market Road 111, Deanville, Burleson County; TYPE OF FACILITY: public water system (PWS); RULES VIOLATED: Texas Health and Safety Code (THSC), §341.0315(c) and 30 TAC §290.46(d)(2)(A) and §290.110(b)(4), by failing to maintain a minimum disinfectant residual of 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.43(c)(6), by failing to ensure that

clearwells and potable water storage tanks, including associated appurtenances such as valves, pipes, and fittings are thoroughly tight against leakage; 30 TAC §290.43(c)(8), by failing to ensure that all clearwells, ground storage tanks, standpipes, and elevated storage tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association standards; 30 TAC §290.121(a) and (b) and TCEQ Agreed Order Docket Number 2019-1789-PWS-E, Ordering Provision Number 2.c., by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan at each water treatment plant that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the PWS will use to comply with the monitoring requirements; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(D)(ii), by failing to provide a total storage capacity of 200 gallons per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(D)(ii), by failing to provide a total storage capacity of 200 gallons per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(D)(i), by failing to provide a well capacity of 0.6 gallons per minute (gpm) per connection; THSC, §341.0315(c), 30 TAC §290.45(b)(1)(D)(iii), and TCEQ Agreed Order Docket Number 2019-1789-PWS-E, Ordering Provision Number 2.f., by failing to provide two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane; THSC, §341.0315(c), 30 TAC §290.45(b)(1)(D)(iii), and TCEQ Agreed Order Docket Number 2019-1789-PWS-E, Ordering Provision Number 2.f., by failing to provide two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane; THSC, §341.0315(c), 30 TAC §290.45(b)(1)(D)(iii), and TCEQ Agreed Order Docket Number 2019-1789-PWS-E, Ordering Provision Number 2.f., by failing to provide two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(D)(iv), by failing to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; THSC, §341.0315(c) and 30 TAC §290.45(b)(1)(D)(iv), by failing to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; and 30 TAC §288.20(c), by failing to review and update, as appropriate, the drought contingency plan at least every five years; PENALTY: $25,375; STAFF ATTORNEY: Cynthia Sirois, Litigation, MC 175, (512) 239-3392; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Fidel Blanco dba F A B Environmental Services; DOCKET NUMBER: 2021-1249-MSW-E; TCEQ ID NUMBER: RN105822209; LOCATION: 2433 Houston Street, Suite 100, Grand Prairie, Dallas County; TYPE OF FACILITY: used oil and used oil filter transporter and used oil transfer facility; RULES VIOLATED: Texas Health and Safety Code, §371.105(c) and 30 TAC §328.25(c), by failing to make copies of bills of lading available for agency personnel to inspect at any reasonable time; and 30 TAC §328.23(a), by failing to ensure that used oil filters are stored, processed, or disposed of in a manner that does not result in the discharge of oil into soil or water; PENALTY: $2,750; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202403978
Gitanjali Yadav
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: August 27, 2024

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Notice of Public Meeting for TPDES Permit for Municipal Wastewater Renewal Permit No. WQ0015000001

APPLICATION. City of Liberty Hill, 926 Loop 332, Liberty Hill, Texas 78642, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal with minor amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015000001, which authorizes an additional Interim flow phase (0.70 MGD) and the removal of two currently authorized Interim flow phases (0.10 MGD and 0.35 MGD). The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1.4 MGD. TCEQ received this application on March 23, 2023.

The facility will be located approximately 2.5 miles north of the intersection of Ronald Reagan Boulevard and State Highway 29, in Williamson County, Texas 78628. The treated effluent will be discharged to an unnamed tributary, thence to Sowes Branch, thence to North Fork San Gabriel River in Segment No. 1251 of the Brazos River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary, and limited aquatic life use for Sowes Branch. The designated uses for Segment No. 1251 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.842222,30.672777&level=18

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Thursday, October 3, 2024 at 7:00 p.m.

Rock Pointe Event Center

170 CR 214

Liberty Hill, Texas 78642

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at https://www.tceq.texas.gov.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Liberty Hill Public Library, 355 Loop 332, Liberty Hill, Texas. Further information may also be obtained from City of Liberty Hill at the address stated above or by calling Mr. David Thomison, Wastewater Superintendent, at (512) 778-5449.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: August 16, 2024

TRD-202403862
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 21, 2024

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Notice of Public Meeting New Permit No. WQ0005436000

APPLICATION. Musket Corporation, 2929 Allen Parkway, Suite 4100, Houston, Texas 77019, which proposes to operate Musket Elmendorf DEF Terminal, a Diesel Emission Fluid (DEF) manufacturing and distribution facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005436000, to authorize the discharge of water treatment wastes at a daily average flow not to exceed 7,900 gallons per day via Outfall 001. The TCEQ received this application on July 17, 2023.

The facility is located at 16426 Old Corpus Christi Road, northwest of the City of Elmendorf, Bexar County, Texas 78112. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

https://gisweb.tceq.texas.gov/LocationMapper/?marker=-98.341666,29.260555&level=18

The effluent is discharged from the plant site to a drainage ditch, thence to a detention pond, thence to a drainage ditch, thence to an unnamed tributary, thence to the Upper San Antonio River in Segment No. 1911 of the San Antonio River Basin. The unclassified receiving water uses are minimal aquatic life use for the drainage ditch and unnamed tributary. The designated uses for Segment No. 1911 are primary contact recreation and high aquatic life use.

In accordance with Title 30 Texas Administrative Code Section 307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with intermediate, high, or exceptional aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with intermediate, high, or exceptional aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, October 7, 2024 at 7:00 p.m.

Elmendorf City Hall

8304 FM 327

Elmendorf, Texas 78112

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800)*

687-4040. General information about the TCEQ can be found at our website at https://www.tceq.texas.gov.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Elmendorf City Hall, 8304 FM 327, Elmendorf, Texas. Further information may also be obtained from Musket Corporation at the address stated above or by calling Mr. Kevin Sokolowski, Manager of Environmental Compliance, at (346) 397-7792.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issued: August 23, 2024

TRD-202404025
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Notice of Withdrawn Application and Public Hearing Cancellation

The Texas Commission on Environmental Quality (TCEQ) submitted a Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Proposed Air Quality Registration Number 176623 for JD Woodruff Construction LLC for publication in the August 2, 2024, issue of the *Texas Register,* TexReg Docket Number 202403341. However the application was withdrawn by the request of the applicant on August 16, 2024. Therefore, the public hearing scheduled for Wednesday, September 4, 2024 is cancelled.

Members of the public with questions regarding this application or public hearing may seek further information by calling the TCEQ Public Education Program toll free at (800) 687-4040.

TRD-202404024
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: August 28, 2024

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Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Rates for Nursing Facility Services, Effective September 1, 2025.

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on October 1, 2024, at 9:00 a.m. (CDT) to receive public comments for nursing facility (NF) services. The proposed payment rates will support the implementation of the Patient Driven Payment Model Long-Term Care (PDPM LTC) methodology for NF services.

This hearing will be conducted both in-person and as an online event. To join the hearing from your computer, tablet, or smartphone, register for the hearing in advance using the following registration URL:

https://attendee.gotowebinar.com/register/6128813494671077721

After registering, you will receive a confirmation email containing information about joining the webinar. Instructions for dialing in by phone will be provided after you register.

Members of the public may attend the rate hearing in person, which will be held in the Public Hearing Room M100 in the Robert D. Moreton Building, 1100 West 49th Street, Austin, Texas 78756. A recording of the hearing will be archived and accessible on demand at https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings under the "Archived" tab. The hearing will be held in compliance with Texas Human Resources Code section 32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

Any updates to the hearing details will be posted on the HHSC website at https://www.hhs.texas.gov/about/meetings-events.

Proposal. The 88th Texas Legislature directed the Texas Health and Human Services Commission (HHSC) to develop and implement a Texas version of the PDPM rate methodology in accordance with the 2024-25 General Appropriation Act, House Bill 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 25). The proposed payment rates were determined in accordance with Title 1 of the Texas Administrative Code Section 355.318, concerning Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025. Proposed rate actions for PDPM LTC methodology for NF services are effective September 1, 2025.

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

Section 355.318, Reimbursement Setting Methodology for Nursing Facilities on or after September 1, 2025. HHSC will publish Section 355.318 as adopted in the September 6, 2024 issue of the *Texas Register.*

Rate Hearing Packet. A briefing packet describing the proposed payment rates will be made available at https://pfd.hhs.texas.gov/rate-packets no later than September 20, 2024. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7401, by fax at (512) 730-7475, or by email at PFD-LTSS@hhs.texas.gov.

Written Comments. Written comments regarding the proposed payment rates may be submitted instead or in addition to oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by email to PFD-LTSS@hhs.texas.gov. In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 Guadalupe St., Austin, Texas 78751.

Preferred Communication. For the quickest response, please use email or phone for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to participate in the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202403973
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: August 26, 2024

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Texas Department of Insurance

Company Licensing

Application to do business in the state of Texas for Wingsail Insurance Company, a foreign fire and/or casualty company. The home office is in Scottsdale, Arizona.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of John Carter, 1601 Congress Ave., Suite 6.900, Austin, Texas 78711.

TRD-202404002
Justin Beam
Chief Clerk
Texas Department of Insurance
Filed: August 28, 2024

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Texas Lottery Commission

Scratch Ticket Game Number 2604 "OH, SNAP!"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2604 is "OH, SNAP!". The play style is "find symbol".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2604 shall be $1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2604.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: REINDEER SYMBOL, PRESENT SYMBOL, HOLLY SYMBOL, CANDYCANE SYMBOL, STOCKING SYMBOL, CHRISTMAS TREE SYMBOL, SANTA HAT SYMBOL, CANDLE SYMBOL, MITTEN SYMBOL, BELL SYMBOL, SNOWBALLS SYMBOL, SLEIGH SYMBOL, WREATH SYMBOL, OWL SYMBOL, SNOWMAN SYMBOL, PENGUIN SYMBOL, STAR SYMBOL, BEAR SYMBOL, SCARF SYMBOL, MILK CARTON SYMBOL, $1, $2, $4, $5, $10, $20, $40, $50, $100 and $500.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2604 - 1.2D

PLAY SYMBOL	CAPTION
REINDEER SYMBOL	DEER
PRESENT SYMBOL	PRESENT
HOLLY SYMBOL	HOLLY
CANDYCANE SYMBOL	CANE
STOCKING SYMBOL	STCKNG
CHRISTMAS TREE SYMBOL	TREE
SANTA HAT SYMBOL	HAT
CANDLE SYMBOL	CANDLE
MITTEN SYMBOL	MITTEN
BELL SYMBOL	BELL
SNOWBALLS SYMBOL	SNWBLLS
SLEIGH SYMBOL	SLEIGH
WREATH SYMBOL	WREATH
OWL SYMBOL	OWL
SNOWMAN SYMBOL	SNOWMAN
PENGUIN SYMBOL	PENGUIN
STAR SYMBOL	STAR
BEAR SYMBOL	BEAR
SCARF SYMBOL	SCARF
MILK CARTON SYMBOL	WIN$
$1	ONE$
$2	TWO$
$4	FOR$
$5	FIV$
$10	TEN$
$20	TWY$
$40	FRTY$

$50	FFTY$
$100	ONHN
$500	FVHN

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2604), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2604-0000001-001.

H. Pack - A Pack of the "OH, SNAP!" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "OH, SNAP!" Scratch Ticket Game No. 2604.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "OH, SNAP!" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eight (8) Play Symbols. A player scratches to reveal 4 Play Symbols. If the player reveals a "MILK CARTON" Play Symbol, the player wins the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly eight (8) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly eight (8) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the eight (8) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eight (8) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. FIND: A non-winning Prize Symbol will never match a winning Prize Symbol.

D. FIND: There will be no matching non-winning Prize Symbols on a Ticket.

E. FIND: There will be no matching non-winning Play Symbols on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "OH, SNAP!" Scratch Ticket Game prize of $1.00, $2.00, $4.00, $5.00, $10.00, $20.00, $40.00, $50.00, $100 or $500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $40.00, $50.00, $100 or $500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. As an alternative method of claiming a "OH, SNAP!" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is $1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

D. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "OH, SNAP!" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of $600 or more from the "OH, SNAP!" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 10,080,000 Scratch Tickets in Scratch Ticket Game No. 2604. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2604 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$1.00	1,142,400	8.82
$2.00	604,800	16.67
$4.00	268,800	37.50
$5.00	84,000	120.00
$10.00	67,200	150.00
$20.00	50,400	200.00
$40.00	7,350	1,371.43
$50.00	1,680	6,000.00
$100	1,260	8,000.00
$500	50	201,600.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.52. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2604 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2604, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202404003

Bob Biard
General Counsel
Texas Lottery Commission
Filed: August 28, 2024

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Scratch Ticket Game Number 2613 "200X THE CASH"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2613 is "200X THE CASH". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2613 shall be $20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2613.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 5X SYMBOL, 10X SYMBOL, 20X SYMBOL, 200X SYMBOL, $20.00, $30.00, $50.00, $100, $200, $500, $2,000, $10,000, $100,000 and $1,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2613 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY

31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
5X SYMBOL	WINX5
10X SYMBOL	WINX10
20X SYMBOL	WINX20
200X SYMBOL	WINX200

$20.00	TWY$
$30.00	TRTY$
$50.00	FFTY$
$100	ONHN
$200	TOHN
$500	FVHN
$2,000	TOTH
$10,000	10TH
$100,000	100TH
$1,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2613), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2613-0000001-001.

H. Pack - A Pack of the "200X THE CASH" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The front of Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "200X THE CASH" Scratch Ticket Game No. 2613.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "200X THE CASH" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. If the player reveals a "200X" Play Symbol, the player wins 200 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly sixty-six (66) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-six (66) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of $2,000, $10,000, $100,000 and $1,000,000 will each appear at least one (1) time, except on Tickets winning thirty (30) times and with respect to other parameters, play action or prize structure.

E. No matching non-Winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. Non-Winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

I. All YOUR NUMBERS Play Symbols, excluding the "5X" (WINX5), "10X" (WINX10), "20X" (WINX20) and "200X" (WINX200) Play Symbols, will never equal the corresponding Prize Symbol (i.e., 30 and $30 and 50 and $50).

J. On all Tickets, a Prize Symbol will not appear more than five (5) times, except as required by the prize structure to create multiple wins.

K. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

L. The "5X" (WINX5) Play Symbol will never appear more than one (1) time on a Ticket.

M. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

N. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

O. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "10X" (WINX10) Play Symbol will never appear more than one (1) time on a Ticket.

Q. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

R. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

S. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

T. The "20X" (WINX20) Play Symbol will never appear more than one (1) time on a Ticket.

U. The "20X" (WINX20) Play Symbol will win 20 TIMES the prize for that Play Symbol and will win as per the prize structure.

V. The "20X" (WINX20) Play Symbol will never appear on a Non-Winning Ticket.

W. The "20X" (WINX20) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

X. The "200X" (WINX200) Play Symbol will never appear more than one (1) time on a Ticket.

Y. The "200X" (WINX200) Play Symbol will win 200 TIMES the prize for that Play Symbol and will win as per the prize structure.

Z. The "200X" (WINX200) Play Symbol will never appear on a Non-Winning Ticket.

AA. The "200X" (WINX200) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

BB. The "5X" (WINX5), "10X" (WINX10), "20X" (WINX20) and "200X" (WINX200) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "200X THE CASH" Scratch Ticket Game prize of $20.00, $30.00, $50.00, $100, $200 or $500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a $30.00, $50.00, $100, $200 or $500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "200X THE CASH" Scratch Ticket Game prize of $2,000, $10,000, $100,000 or $1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of $600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "200X THE CASH" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is $1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under $600 from the "200X THE CASH" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of $600 or more from the "200X THE CASH" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2613. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2613 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
$20.00	964,800	8.33
$30.00	450,240	17.86
$50.00	514,560	15.63
$100	321,600	25.00
$200	100,835	79.73
$500	8,040	1,000.00
$2,000	250	32,160.00
$10,000	50	160,800.00
$100,000	5	1,608,000.00
$1,000,000	4	2,010,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.41. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2613 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2613, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202403917
Bob Biard
General Counsel
Texas Lottery Commission
Filed: August 26, 2024

♦ ♦ ♦

Nortex Regional Planning Commission

Request for Proposals

Nortex Regional Planning Commission is requesting proposals from qualified firms of certified public accountants to audit its financial statements for the fiscal year ending September 30, 2024, with the option of auditing its financial statements for each of the four subsequent fiscal years. These audits are to be performed in accordance with generally accepted auditing standards set forth by the American Institute of Certified Public Accountants, OMB Circular A-133, and the State of Texas Single Audit Circular.

To obtain copies of this Request for Proposals, please go to our website which is www.nortexrpc.org and look for "Request for Proposals for Audit Services". A bidder's conference is scheduled for September 13, 2024 at 1:30 p.m., CST, at the offices of Nortex Regional Planning Commission, 4309 Jacksboro Highway, Suite 200, Wichita Falls, Texas, 76302 to answer any and all questions. A ZOOM option will be available upon request. All proposals must be received no later than 3:00 p.m., CST, on September 27, 2024. Proposals received after the specified date and time will not be considered.

TRD-202403993

Dennis Wilde
Executive Director
Nortex Regional Planning Commission
Filed: August 28, 2024

♦ ♦ ♦

Public Utility Commission of Texas

Correction of Error

The Public Utility Commission of Texas adopted amendments to 16 TAC §24.25 in the August 30, 2024, issue of the *Texas Register* (49 TexReg 6741). Due to an error by the Texas Register, the figure included in 16 TAC §24.25(j)(3) was inadvertently omitted from the publication. The correct figure follows:

Figure: 16 TAC §24.25(j)(3)

TGC = cgc + [(prr)(cgc)(r)/(1.0-r)] where,

TGC = Temporary gallonage charge

cgc = current gallonage charge r = water use reduction expressed as a decimal fraction (the pumping restriction)

prr = percentage of revenues to be recovered expressed as a decimal fraction (i.e., 50% = 0.5)

TRD-202403992

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How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 24 of Volume 49 (2024) is cited as follows: 49 TexReg 24.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "49 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 49 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: http://www.sos.state.tx.us. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION
Part 4. Office of the Secretary of State
Chapter 91. Texas Register
1 TAC §91.1…….....950 *(P)*

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