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 1. ADMINISTRATION

PART 10. DEPARTMENT OF INFORMATION RESOURCES

CHAPTER 218. DATA GOVERNANCE AND MANAGEMENT

The Texas Department of Information Resources (department) proposes amendments to 1 Texas Administrative Code (TAC) Chapter 218, Subchapter B, §218.10, and Subchapter C, §218.20. The proposed amendments align these rules with the House Bill 1500 [89th Session (Regular)] amendments to Texas Government Code § 2054.515, which identify the data governance assessment as a distinct report and clarifies the reporting requirements for this assessment.

The department proposes amendments to §218.10, for state agencies, and §218.20, for institutions of higher education. The amendments to these sections align the reporting requirements and deadlines for the data governance assessment with those found at Texas Government Code § 2054.515 and standardize the assessment tool used by state agencies to ensure the department's ability to collect and report upon the data as contemplated by Texas Government Code Chapter 2054. The department further proposes amendments to these sections that establish the data governance assessment as a discrete report separate from the information security assessment.

The department proposes amendments to §218.20 removing the clarification that the data maturity assessment is considered an information security standard, and, as such, the requirement for public junior colleges to comply with this requirement subject to Texas Government Code § 2054.0075.

There is no economic impact on rural communities, small businesses, or microbusinesses as a result of enforcing or administering the amended rule as proposed.

The amendments to this chapter only apply to state agencies and institutions of higher education.

The assessment of the impact of the proposed changes on institutions of higher education was prepared in consultation with the Information Technology Council for Higher Education (ITCHE) in compliance with Texas Government Code § 2054.121(c). DIR submitted the proposed amendments to the Information Technology Council of Higher Education for their review. DIR determined that there was no direct impact on institutions of higher education as a result of the proposed rules.

Neil Cooke, the Chief Data Officer, has determined that there will be no fiscal impact upon state agencies, institutions of higher education, and local government during the first five year period following the adoption of the proposed amendments. State agencies are required by Texas Government Code § 2054.515(a) to complete an assessment of its data governance program; the proposed amendments simply clarify the reporting requirements and establish the data governance assessment as a distinct report in alignment with House Bill 1500 [89th Legislative Session (Regular)]. As such, there is no fiscal impact as a result of the administrative rule. Mr. Cooke has further determined that for each year of the first five years following the adoption of the amended 1 Texas Administrative Code Chapter 218, there are no anticipated additional economic costs to persons or small businesses required to comply with the amendments and proposed new rules.

Pursuant to Texas Government Code § 2001.0221, the agency provides the following Governmental Growth Impact Statement for the proposed amendments. The agency has determined the following:

1. The proposed rules neither create nor eliminate a government program. Texas Government Code § 2054.515 requires state agencies to complete a data maturity assessment and submit it to the department. The proposed amendments merely administer the minimum requirements for this assessment and establishes the procedures to submit it to the department.

2. Implementation of the proposed rules does not require the creation or elimination of employee positions. There are no additional employees required nor employees eliminated to implement the rule as proposed.

3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency. There is no fiscal impact as implementing the rule does not require an increase or decrease in future legislative appropriations.

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 rule.

6. The proposed rules do not repeal an existing regulation.

7. The proposed rules do not increase or decrease the number of individuals subject to the rule's applicability. Texas Government Code § 2054.515 requires state agencies to complete the data maturity assessment; Texas Government Code Chapter 2054 establishes the parameters of the term "state agency," which identifies the entities that are subject to the amended rule sections' requirements.

8. The proposed rules do not positively or adversely affect the state's economy. The creation of rules establishing minimum requirements for an entity's data maturity assessment ensures that state agencies are scrutinizing their data governance pro-

gram to ensure rigorous security standards and alignment with best practices.

Written comments on the proposed rules may be submitted to Christi Koenig Brisky, Assistant General Counsel, 300 West 15th Street, Suite 1300, Austin, Texas 78701, or to rules.review@dir.texas.gov. Comments will be accepted for 30 days after publication in the *Texas Register*.

SUBCHAPTER B. DATA GOVERNANCE AND MANAGEMENT FOR STATE AGENCIES

1 TAC §218.10

The amendments are proposed pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, and Texas Government Code § 2054.515(c) which admonishes the department to establish the data maturity assessment requirements by rule.

No other code, article, or statute is affected by this proposal.

§218.10. Data Maturity Assessment.

(a) A state agency shall conduct a biennial data maturity assessment and submit the report of the assessment results in compliance with Texas Government Code § 2054.515. [~~by November 15 of each even-numbered year, December 1 of the year in which the agency completes the assessment, or the 60th day after the agency completes the assessment, whichever comes first.~~]

(b) The data maturity assessment tool promulgated by the department shall include at least the below elements:

(1) Data Architecture;

(2) Data Analytics;

(3) Data Governance and Standardization;

(4) Data Management and Methodology;

(5) Data Program Management and Change Control;

(6) Data Quality;

(7) Data Security and Privacy;

(8) Data Strategy and Roadmap;

(9) Master Data Management; [~~and~~]

(10) Metadata Management; and[~~.~~]

(11) Texas Open Data Portal.

(c) State agencies shall [~~may~~] complete their data maturity assessment through the [~~a~~] method prescribed [~~identified~~] by the department. [~~or by using their own tool that includes the elements required by subsection (b) of this section.~~]

(d) The data maturity assessment completed pursuant to this subsection addresses the requirement to review an agency's data governance program found in Texas Government Code § 2054.515[~~(a)(2)~~].

~~(e)~~ [~~(e) To comply with Texas Government Code § 2054.515(a), a state agency must complete a data maturity assessment that is compliant with this section in addition to addressing all information security assessment requirements enumerated in 1 Texas Administrative Code Chapter 202.~~]

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

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Joshua Godbey
General Counsel
Department of Information Resources
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For further information, please call: (512) 475-4531

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SUBCHAPTER C. DATA GOVERNANCE AND MANAGEMENT FOR INSTITUTIONS OF HIGHER EDUCATION

1 TAC §218.20

The amendments are proposed pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054, and Texas Government Code § 2054.515(c) which admonishes the department to establish the data maturity assessment requirements by rule.

No other code, article, or statute is affected by this proposal.

§218.20. Data Maturity Assessment.

(a) An institution of higher education shall conduct a biennial data maturity assessment and submit the report of the assessment results in compliance with Texas Government Code § 2054.515. [~~by November 15 of each even-numbered year, December 1 of the year in which the institution of higher education completes the assessment, or the 60th day after the institution of higher education completes the assessment, whichever comes first.~~]

(b) An institution of higher education's data maturity assessment shall include at least the below elements:

(1) Data Architecture;

(2) Data Analytics;

(3) Data Governance and Standardization;

(4) Data Management and Methodology;

(5) Data Program Management and Change Control;

(6) Data Quality;

(7) Data Security and Privacy;

(8) Data Strategy and Roadmap;

(9) Master Data Management; [~~and~~]

(10) Metadata Management; and[~~.~~]

(11) Texas Open Data Portal.

(c) Institutions of higher education shall [~~may~~] complete their data maturity assessment through the [~~a~~] method prescribed [~~identified~~] by the department. [~~or by using their own tool that includes the elements required by subsection (b) of this section.~~]

(d) The data maturity assessment completed pursuant to this subsection addresses the requirement to review an institution of higher education's data governance program found at Texas Government Code § 2054.515[~~(a)(2)~~].

~~[(e) To comply with Texas Government Code § 2054.515(a), an institution of higher education must complete a data maturity assess-~~

ment that is compliant with this section in addition to addressing all information security assessment requirements enumerated in 1 Texas Administrative Code Chapter 202.]

[(f) To the extent that the data maturity assessment is an element of the information security assessment required by Texas Government Code § 2054.515 and codified at 1 Texas Administrative Code Chapter 202, it is an information security standard to which a public junior college is subject pursuant to Texas Government Code § 2054.0075.]

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

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CHAPTER 219. ARTIFICIAL INTELLIGENCE

The Texas Department of Information Resources (department) proposes the creation of 1 Texas Administrative Code (TAC) Chapter 219, Subchapter A, §219.1 and §219.11 and Subchapter B, §§219.20 - 219.24. This proposed chapter addresses the Senate Bill 1964 [89th Session (Regular)] requirements for the department to create rules establishing an artificial intelligence (AI) code of ethics and minimum risk management and governance standards for the development, procurement, deployment, and use of heightened scrutiny AI systems by certain governmental entities in addition to any other rules necessary to implement Texas Government Code Chapter 2054, Subchapter S.

Within Subchapter A, the department proposes the creation of §219.1 and §219.11. Section 219.1 introduces specialized definitions required by the rule, including incorporating statutory references to terms already defined by state law, such as AI system, heightened scrutiny AI system, controlling factor, and consequential decision. Section 219.11 establishes the AI code of ethics required by Senate Bill 1964 [89th Session (Regular)], which details the ethical guidelines for the procurement, development, deployment, or use of AI systems by governmental entities. Under Senate Bill 1964 [89th Session (Regular)], state agencies, including institutions of higher education, and local governments are required to adopt the AI Code Ethics established by Section 219.11

The department proposes the creation of subchapter B, §§219.20 - 219.24. This subchapter establishes the minimum standards required by Senate Bill 1964 [89th Session (Regular)] as recognized by Section 219.20. Specifically, this subchapter establishes AI risk management standards in Section 219.21, the mandatory risk assessment considerations required when a state agency or local government develops, procures, deploys, or uses a heightened scrutiny AI system in Section 219.22, and the AI impact assessment required of a state agency when it or a vendor on its behalf deploys or uses a heightened scrutiny AI system in Section 219.23. As required by Senate Bill 1964 [89th Session (Regular)], Section 219.24 establishes the guidelines for risk management frameworks, acceptable use policies, employee training, and unlawful harm risk mitigation when deploying heightened scrutiny AI systems.

There is no economic impact on rural communities or small businesses as a result of enforcing or administering the rule as proposed.

The proposed rule applies to state agencies, institutions of higher education, and, in limited scope as required by Senate Bill 1964 [89th Session (Regular)], local governments, a term which may include approximately 1,100 rural communities as defined by Texas Government Code § 2006.001(1-a). It does not apply to small businesses or micro-businesses. As a result, there is no economic impact on small businesses or micro-businesses as a result of enforcing or administering the amended rule as proposed.

There is no adverse economic impact to rural communities as a result of the proposed rule. Previously, there were no standardized ethical expectations or risk management requirements for the use of AI by Texas governmental entities. As a result, state agencies and local governments, including rural communities, have implemented patchwork solutions that may result in inconsistent policies surrounding the ethical use of AI. With the passage of Senate Bill 1964 [89th Session (Regular)], state agencies, institutions of higher education, and local governments, including rural communities as defined by Texas Government Code § 2006(1-a), must establish uniform minimum ethical standard for the use of AI within their organization. These guidelines are common sense principles that align with general standards surrounding the ethical and secure use of AI by the government. Implementing the code of ethics and ethical principles will serve to ensure the ongoing security of the State of Texas. In addition, Section 219.22 details the considerations a local government must undertake prior to the development, procurement, deployment, or use of a heightened scrutiny AI system. Given the specific statutory definition for heightened scrutiny AI systems, it is unlikely that a rural community has such a system at this time. To the extent that a rural community does implement such a system in future, the required risk assessment includes standard considerations similar to those required for the implementation of any other IT system. The department discussed the implications of Senate Bill 1964 [89th Session (Regular)] with local governments prior to the passage of this legislation)] to ensure that there was no adverse impact to and the least administrative burden upon local governments, including rural communities. As a result and due to the limited scope of these administrative rules, there is no adverse impact to rural communities.

The assessment of the impact of the proposed changes on institutions of higher education was prepared in consultation with the Information Technology Council for Higher Education (ITCHE) in compliance with Texas Government Code § 2054.121(c). DIR submitted the proposed amendments to the Information Technology Council of Higher Education for their review. ITCHE members identified several impacts to institutions of higher education. Upon review, these impacts are a direct result of the requirements of Senate Bill 1964 [89th Legislative Session (Regular)] rather than those imposed by the proposed rule. As a result, DIR determines that there is no impact upon institutions of higher education as a result of the proposed rules.

Jennie Hoelscher, Privacy Officer, has determined that there will be no fiscal impact upon state agencies, institutions of higher education, and local government during the first five year period following the adoption of the proposed amendments. The cre-

ation of rules administering the requirements of Texas Government Code Chapter 2054, Subchapter S, including the creation of a statewide AI System Code of Ethics, minimum risk management and governance standards for the development, procurement, deployment, and use of heightened scrutiny AI systems by governmental entities, and guidelines for frameworks, policies, and trainings, is in compliance with the department's specific rulemaking authority granted by Senate Bill 1964 [89th Session (Regular)] and addresses the statutory requirements imposed upon the department without resulting in a fiscal impact as a result of the administrative rule. Ms. Hoelscher has further determined that for each year of the first five years following the adoption of new 1 TAC Chapter 219, there are no anticipated additional economic costs to persons or small businesses required to comply with the amendments and proposed new rules.

Pursuant to Texas Government Code § 2001.0221, the agency provides the following Governmental Growth Impact Statement for the proposed amendments. The agency has determined the following:

The proposed rules neither create nor eliminate a government program. Texas Government Code Chapter 2054, Subchapter S, requires the department to identify ethical guidelines governing AI use by governmental entities and establish standards for implementing heightened scrutiny AI systems. The proposed rules merely administer the minimum requirements for this assessment.

Implementation of the proposed rules does not require the creation or elimination of employee positions. There are no additional employees required nor employees eliminated to implement the rule as proposed.

Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency. There is no fiscal impact as implementing the rule does not require an increase or decrease in future legislative appropriations.

The proposed rules do not require an increase or decrease in fees paid to the agency.

The proposed rules create a new rule chapter that addresses the statutory requirements for administrative rules imposed upon the department by Senate Bill 1964 [89th Session (Regular)].

The proposed rules do not repeal an existing regulation.

The proposed rules do not increase or decrease the number of individuals subject to the rule's applicability. The entities to whom these rules apply are identified by Texas Government Code Chapter 2054, Subchapter S.

The proposed rules do not positively or adversely affect the state's economy. The creation of rules establishing an AI code of ethics and minimum standards for heightened scrutiny AI systems ensures that governmental entities are scrutinizing their use of AI to ensure rigorous security standards and alignment with best practices.

Written comments on the proposed rules may be submitted to Christi Koenig Brisky, Assistant General Counsel, 300 West 15th Street, Suite 1300, Austin, Texas 78701, or to rules.review@dir.texas.gov. Comments will be accepted for 30 days after publication in the *Texas Register.*

SUBCHAPTER A. CODE OF ETHICS AND GENERAL INFORMATION

1 TAC §219.1, §219.11

The new rules are proposed pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054; Texas Government Code § 2054.703, which requires the department to establish minimum standards for heightened scrutiny AI systems; and Texas Government Code § 2054.702, which requires the department to establish an AI system code of ethics.

No other code, article, or statute is affected by this proposal.

§219.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) AI--Artificial Intelligence

(2) Artificial Intelligence System--As defined by Texas Government Code § 2054.003(1-a).

(3) Consequential Decision--As defined by Texas Government Code § 2054.003(2-b).

(4) Controlling Factor--As defined by Texas Government Code § 2054.003(2-c).

(5) Department--The Department of Information Resources.

(6) Executive Head--The top-most senior executive with operational accountability for a state agency or local government.

(7) Governmental Entities--State agencies, including institutions of higher education, and local governments.

(8) Heightened Scrutiny Artificial Intelligence System--As defined by Texas Government Code § 2054.003(6-a).

(9) Information Resources--As defined by Texas Government Code § 2054.003(7).

(10) Information Resources Technologies--As defined by Texas Government Code § 2054.003(8).

(11) Local Government--As defined by Texas Government Code § 2054.003(9).

(12) Personal Identifying Information (PII) --As defined by Texas Business & Commerce Code § 521.002(a)(1).

(13) Principal Basis--As defined by Texas Government Code § 2054.003(11).

(14) State Agency--As defined by Texas Government Code § 2054.003(13).

(15) Unlawful Harm--As defined by Texas Government Code § 2054.701.

§219.11. Code of Ethics and the Ethical Principles of Artificial Intelligence.

(a) As required by Texas Government Code § 2054.702, state agencies and local governments shall adopt the AI Code of Ethics established by this section and follow the ethical principles included herein as they procure, develop, deploy, or use artificial intelligence systems.

(b) Preamble

(1) AI systems have the potential to transform the way our state and local governments serve Texans. AI systems can create efficiencies, support economic and scientific advancement, and improve

the safety and well-being of our communities. The State of Texas supports the use of AI systems by governmental entities to improve the services they deliver to Texans and to lead in innovative AI adoption in the public sector.

(2) While they have significant potential value, AI systems also pose substantial risks if not implemented ethically and responsibly. AI risks vary based on the system involved, how it is used, and who uses it. AI systems are often trained on large amounts of data from a variety of sources, which can lead to inaccurate outputs. To the extent that AI systems are trained on or used to process PII, they raise significant privacy concerns. Malicious actors can utilize AI to develop more advanced cyberattacks, bypass security measures, and exploit vulnerabilities in systems. These and other AI risks make it a uniquely challenging technology for governmental entities to use safely, but with appropriate guardrails, governmental entities can limit the risks of AI and secure its many benefits for Texans.

(3) Governmental entities must limit the potential harm of AI systems by managing risk and prioritizing trustworthy and responsible development and deployment of AI consistent with the National Institute of Standards and Technology AI Risk Management Framework. Creating trustworthy AI requires balancing each of these principles based on the identified risks of an AI system and the context in which it is used.

(4) This section articulates the principles of ethical AI implementation that governmental entities must strive for when procuring, developing, designing, or using AI systems.

(c) Human Oversight and Control

(1) Human oversight plays a crucial role in ensuring that AI systems operate ethically. While AI can analyze vast amounts of data much faster--and sometimes more accurately--than humans, it lacks the human judgment necessary to ensure that its decisions align with societal values and the rights granted to individuals under the law. Ensuring human control over AI systems mitigates risks of inaccurate or undesirable outputs and allows for revision of the rules established during development of the system and to the data that supports the system's decision-making.

(2) Governmental entities:

(A) Must deploy AI systems in ways that enable humans to review and analyze inputs and outputs at appropriate intervals throughout the AI lifecycle;

(B) May incorporate a level of human oversight reasonably commensurate to the risks associated with a particular AI system, with heightened scrutiny AI systems requiring increased human oversight relative to lower risk systems; and

(C) Must ensure AI systems can be disabled until harmful or inaccurate decision making can be remedied.

(d) Fairness

(1) The data used to develop AI systems must adequately represent the subjects or people about which AI systems make judgments, decisions, or predictions. Incomplete or inaccurate data can result in unlawful harm.

(2) Governmental entities:

(A) Must ensure their use of AI systems does not infringe upon the legally protected rights and liberties of the individuals they serve or result in unlawful harm; and

(B) Must implement data governance practices for AI systems throughout the AI system's lifecycle to ensure fairness.

(e) Accuracy

(1) While AI systems are overall improving in their ability to deliver more accurate results, inaccurate outputs remain a significant risk when using AI systems.

(2) Governmental entities:

(A) Must train their employees to understand the importance of verifying AI outcomes for accuracy;

(B) Must formalize processes for monitoring system accuracy before the deployment of an AI system and throughout its life cycle, as a system's accuracy may change over time; and

(C) Shall, when feasible, implement processes to improve the accuracy of AI systems by training the systems using human feedback or improving retrieval-augmented generation by ensuring the accuracy and relevance of the underlying data used by the tool to develop answers.

(f) Redress

(1) Providing a method for redress will promote public trust in both the AI system and in the entity that deploys it.

(2) Governmental entities:

(A) Must provide a mechanism to seek redress for those impacted when an AI system makes a consequential decision that unfairly impacts an individual or group in a material way;

(B) Must have a designated point of contact for individuals to address when seeking information about an unfair consequential decision; and

(C) Must develop internal procedures to allow employees to identify and remedy negative impacts caused by the use of AI systems.

(g) Transparency

(1) Establishing transparency for AI systems means providing information about the data, models, and outputs of an AI system to both the individuals interacting with the system and those deploying it. Strong transparency practices will build public trust in the AI systems governmental entities use.

(2) Governmental entities:

(A) Must collaborate with developers of AI systems and demand transparency to understand how a system operates, the source of the data the system was trained on, and its intended use cases;

(B) Must strive to understand the capabilities of the system and how it makes decisions;

(C) Must disclose when individuals interact with an AI system and when an AI system is used to make material decisions about their rights or access to governmental services; and

(D) Must never represent AI systems as human when interacting with the public.

(h) Data Privacy

(1) Governmental entities have a responsibility to protect the PII they collect and process about individuals, and both legal and ethical restrictions exist on what PII entities share with third parties. Data privacy principles likewise apply to the PII governmental entities process in and share with AI systems.

(2) The most effective method for protecting PII is through data minimization.

(3) Many AI systems rely on vast amounts of PII to make predictions and decisions. Sharing PII with an AI tool may violate privacy laws and obligations the entity has to the individual.

(4) Governmental entities:

(A) May collect and maintain only that PII needed for operations and must establish a process to delete PII consistent with records retention schedules and other legal requirements.

(B) Must strive to understand what PII the AI system uses, how that PII has been and will be collected, and how the tool uses, stores, and shares PII with third parties prior to using any government-held PII in an AI system;

(C) Must train employees about the risk of inputting sensitive or PII into publicly available AI systems that use inputs to train the model and share those inputs with other users of the AI system outside of the governmental entity; and

(D) Must strive to practice data minimization and ensure they abide by any purpose limitations granted when the PII was first collected, or as expressly allowed by law.

(i) Security

(1) AI systems are subject to security vulnerabilities. Common security concerns in the AI context involve data poisoning or malicious code injection, exfiltration of models or data within the AI system, and improper access controls that result in unauthorized access to the AI system itself. Secure AI systems will maintain the confidentiality and integrity of the AI system as well as the data it contains even when unexpected events or changes in their environment or use occur.

(2) Governmental entities:

(A) Must monitor, secure, and test AI systems to prevent or limit security attacks; and

(B) Must demand that AI system providers disclose known vulnerabilities and resolutions in a timely manner to the governmental entities deploying those systems.

(j) Accountability and Liability

(1) While governmental entities may delegate tasks and decision making to AI systems, the entities remain accountable for the decisions the AI systems make and the outcomes they produce. Use of AI systems for employment-related tasks or to make consequential decisions poses heightened risks.

(2) Governmental entities:

(A) Must provide training to employees on how to use AI systems in an effective, safe, and ethical way;

(B) Must ensure their vendors are contractually bound to these AI ethical principles and any relevant laws or regulations governing the use of AI systems; and

(C) Must ensure AI systems they deploy comply with the legal obligations they have at both the state and federal level.

(3) When deploying AI systems, governmental entities must establish appropriate retention schedules for the AI system's records and consider the Public Information Act implications related to the storage of data inputs and outputs.

(k) Evaluation

(1) AI systems can change over time, as can the purposes for which they are used.

(2) Governmental entities:

(A) Must establish methods for regular evaluation of AI systems to ensure the systems provide ongoing benefit to the populations they serve; and

(B) Must document such evaluations.

(l) Documentation

(1) Documentation provides a critical element for managing AI risk. Consistent documentation of preliminary assessments, ongoing monitoring and testing, and complaints provides governmental entities insight into the operations and improvements of their AI systems over their lifecycle. Documentation allows entities to evaluate the value of AI systems and determine where best to spend resources in further developing AI solutions.

(2) Governmental entities should maintain records of:

(A) The sources of data used in the AI system; and

(B) How the AI system is modified throughout the system's life cycle.

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

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SUBCHAPTER B. REQUIRED MINIMUM STANDARDS

1 TAC §§219.20 - 219.24

The new rules are proposed pursuant to Texas Government Code § 2054.052(a), which authorizes the department to adopt rules as necessary to implement its responsibilities under Texas Government Code Chapter 2054; Texas Government Code § 2054.703, which requires the department to establish minimum standards for heightened scrutiny AI systems; and Texas Government Code § 2054.702, which requires the department to establish an AI system code of ethics.

No other code, article, or statute is affected by this proposal.

§219.20. Statutory Requirement.

This subchapter establishes the minimum standards required by Texas Government Code § 2054.703 as enacted pursuant to Senate Bill 1964 of the Eighty-ninth Regular Session.

§219.21. AI Risk Management.

(a) A state agency or local government shall designate an employee as the AI Risk Officer.

(1) The AI Risk Officer is responsible for promoting ethical AI system procurement, development, deployment, and use within the state agency or local government, consistent with the AI Code of Ethics established by this chapter and the AI Risk Management Framework published by the National Institute of Standards and Technology.

(2) If a state agency or local government deploys a heightened scrutiny AI system, the AI Risk Officer is responsible for ensuring that the risk assessment is completed for that system. The AI Risk Officer shall evaluate the completed risk assessment and ensure that the heightened scrutiny AI system is deployed consistent with the minimum standards established by this chapter.

(3) In filling this role, the state agency or local government may employ an individual solely for this purpose or may add this responsibility to a current employee's existing job duties.

(b) A state agency or local government shall establish a process to identify and inventory all implementations of AI systems that qualify as heightened scrutiny AI systems.

§219.22. AI Risk Assessment for Heightened Scrutiny AI Systems.

(a) Before a state agency or local government develops, procures, deploys, or uses a heightened scrutiny AI system and at the time that a material change is made to the system, the state agency or local government shall conduct a written AI risk assessment to consider the probability and severity of harm that could occur as the result of implementation of the AI system.

(b) The risk assessment shall consider and document:

(1) The AI system's known security risks and mitigation steps available to limit those risks;

(2) The heightened scrutiny AI system's performance metrics, including:

(A) measurements of the accuracy and relevance of the system's outputs; and

(B) measurements of the operational aspects of the system, including model latency, uptime, and error rate; and

(3) The heightened scrutiny AI system's transparency, including information about:

(A) The system's algorithms and how the system makes decisions;

(B) The data used to train the system's model; and

(C) The availability of inputs and outputs to monitor the system's decision-making over time.

(c) When a state agency or local government is deploying any heightened scrutiny AI system, the AI Risk Officer shall:

(1) Review the completed written risk assessment prepared for that system prior to system deployment; and

(2) Approve or deny deployment of the system based on the risk and mitigation measures identified by the completed written risk assessment. At a minimum, the AI Risk Officer shall notify the state agency or local government's executive head or their designee of a decision to deploy a heightened scrutiny AI system. A state agency or local government may also establish a process for consultation or final approval by the executive head or their designee, as the state agency or local government determines appropriate.

(d) The state agency or local government shall maintain a record of the completed written risk assessment and all relevant documents for as long as required by the applicable state records retention schedule.

§219.23. AI Impact Assessments

(a) A state agency that deploys or uses a heightened scrutiny artificial intelligence system or, at the request of a contracting state agency, a vendor that contracts with the state agency for the deployment or use of a heightened scrutiny AI system shall conduct an impact assessment:

(1) prior to deploying the heightened scrutiny AI system; and

(2) at the time any material change is made to:

(A) The system;

(B) The state or local data used by the system; or

(C) The intended use of the system.

(b) A heightened scrutiny AI system impact assessment required by this section must include:

(1) A description of the system, including its training data, model, and intended use;

(2) How the agency will use the system and who within the state agency is responsible for its deployment and ongoing monitoring and evaluation;

(3) Whether the system will process or store any PII provided by the agency or the users of the agency's system and, if so, whether the system will use that information to train the model;

(4) Potential risks of unlawful harm that the agency identifies and steps the agency can take to limit those risks;

(5) System limitations identified by the agency;

(6) How the agency will monitor the system outputs to evaluate accuracy and harm and identify the intervals at which the monitoring will occur; and

(7) The retention duration for the system's inputs and outputs and the method for deleting outputs once the identified retention period has passed.

(c) A state agency or a vendor contracted by the state agency shall either develop its own AI impact assessment for heightened scrutiny artificial intelligence systems or use the standard impact assessment form created by the department.

(d) A state agency that deploys or uses a heightened scrutiny artificial intelligence system shall maintain a record of the AI impact assessment for as long as required by the applicable state records retention schedule.

(1) If a vendor that contracts with the state agency for the deployment or use of a heightened scrutiny AI system conducts an impact assessment, the state agency must receive a copy of the completed impact assessment, which is treated as the document of record.

(2) The state agency shall make a copy of the assessment available to the department on request.

(e) Local governments shall:

(1) Comply with all requirements established by the department regarding the procurement of information resources and information resources technology that include a heightened scrutiny AI system;

(2) Consider conducting an impact assessment in alignment with the state agency requirements established by subsections (a)- (c) when deploying a heightened scrutiny AI system; and

(3) Review relevant resources posted by the department on its website.

§219.24. Guidelines for Frameworks, Policies, and Trainings.

(a) This section establishes the guidelines required by Texas Government Code § 2054.703(b)(4) as enacted pursuant to Senate Bill 1964 in the Eighty-ninth Regular Session.

(b) When a state agency or local government deploys or uses a heightened scrutiny AI system, they must identify the acceptable use cases for such system, identify its limitations, and adopt an acceptable use policy to prevent uses other than those approved by the agency for the heightened scrutiny artificial intelligence system. All employees must be adequately trained on the acceptable use policy.

(c) A state agency or local government that deploys or uses a heightened scrutiny AI system shall provide employees or contractors who access, use, or manage the heightened scrutiny AI system with training regarding identified risks and appropriate methods for mitigating those risks.

(d) A state agency or local government that contracts with vendors to deploy a heightened scrutiny AI system shall mitigate third party risk by contractually requiring those vendors to implement the AI Risk Management Framework published by the National Institute of Standards and Technology for heightened scrutiny AI systems.

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

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Joshua Godbey
General Counsel
Department of Information Resources
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For further information, please call: (512) 475-4531

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TITLE 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 83. REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

The Finance Commission of Texas (commission) proposes amendments to §83.301 (relating to Definitions), §83.302 (relating to Filing of New Application), §83.303 (relating to Transfer of License; New License Application on Transfer of Ownership), §83.306 (relating to Updating Application and Contact Information), §83.307 (relating to Processing of Application), §83.308 (relating to Relocation), §83.309 (relating to License Inactivation or Voluntary Surrender), §83.311 (relating to Applications and Notices as Public Records), §83.403 (relating to License Term, Renewal, and Expiration), and §83.404 (relating to Denial, Suspension, or Revocation Based on Criminal History); and proposes the repeal of §83.304 (relating to Change in Form or Proportionate Ownership), §83.305 (relating to Amendments to Pending Application), and §83.402 (relating to License Display) in 7 TAC Chapter 83, concerning Regulated Lenders and Credit Access Businesses.

The rules in 7 TAC Chapter 83, Subchapter A govern regulated loans. In general, the purposes of the proposed rule changes to 7 Chapter 83, Subchapter A are to implement the OCCC's transition to the NMLS licensing system for regulated lenders, to remove rule text that is no longer necessary, and to make other technical corrections and updates related to licensing.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received one precomment, which was submitted by an association of regulated lenders. The OCCC appreciates the thoughtful input of stakeholders.

Proposed amendments and repeals in §83.301 through §83.405 would implement the OCCC's transition to the NMLS system. The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including regulated lender licenses under Texas Finance Code, Chapter 342. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2025, a majority of licensed regulated lenders completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Proposed amendments to §83.301 would replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS.

Proposed amendments to §83.302 would streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §83.302 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the proposed amendments would significantly simplify §83.302, and ensure that an applicant can easily read and understand the rule. A proposed amendment at §83.302(c) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. A proposed amendment at §83.302(d) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that would be removed from §83.306(a), as explained later in this preamble.

Proposed amendments to §83.303 would streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §83.303(b)(3), proposed amendments to the definition of "transfer of ownership" would limit the definition to focus on transfers from one company to

another. Going forward in NMLS, the OCCC anticipates that changes to the identifies of a single company's owners will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.306. A proposed amendment to §83.303(c) would explain that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. Other proposed amendments throughout §83.303 would ensure consistency with this revised transfer process.

The proposal would repeal §83.304, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.306. Therefore, §83.304 will no longer be necessary.

The proposal would repeal §83.305, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the proposed amendment at §83.302(c) explaining the OCCC may require additional information, §83.305 will no longer be necessary.

Proposed amendments to §83.306 would consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §83.306(a), the proposed amendments would list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in accordance with an agency's written instructions. As explained in the proposed amendments to §83.306(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §83.306(b), proposed amendments would list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The proposed notification amendments will help ensure that the OCCC can monitor this crucial issue.

In a precomment, an association of regulated lenders requested that "the OCCC not expand the notice requirement in Section 83.306(b)(1) beyond items that relate to licensed activity or that would change an answer in an original application," and requested that this provision "be limited to final actions and relevant information." In response to this precomment, proposed §83.306(b)(1) states that notification is required for actions "that were not disclosed in the original application and would require a different answer than that given in the original license application." The commission and the OCCC agree that this item should be limited to actions that are relevant to licensing and would require a different answer from the license application. However, the commission and the OCCC disagree with the suggestion to limit this provision to "final" actions, since it may be appropriate to require information about significant pending civil or regulatory actions that are relevant to licensing.

Proposed amendments to §83.307 would revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §342.104. A proposed amendment at §83.307(d) would explain that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Under Texas Finance Code, §342.104(b), if the OCCC finds that a license applicant has not met the eligibility requirements for a license, then the OCCC will notify the applicant. Under Texas Finance Code, §342.104(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Proposed amendments at §83.307(d) would specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §342.104(b). Proposed amendments at §83.307(e) would revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas Finance Code, §342.104(c). A proposed amendment would remove current §83.307(e), regarding disposition of fees, because this language unnecessarily duplicates language in §83.310 (regarding Fees). Proposed amendments to §83.307(f) would clarify the 60-day target period to process a license application and the 60-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §342.104(c)-(d).

Proposed amendments to §83.308 would revise requirements for notice of relocation of licensed offices. The proposal would remove current §83.308(a), because the requirement to notify the OCCC of a branch office relocation will be moved to §83.306(a) as an advance change notice, as discussed earlier in this preamble.

Proposed amendments to §83.309 would revise requirements for license surrender. The proposed amendment would explain that a licensee may surrender a license by providing the information required by the OCCC's written instruction, in accordance with Texas Finance Code, §342.160, and that a surrender is effective when the OCCC approves the surrender.

Proposed amendments to §83.311 would remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCCC no longer accepts original paper documents with a license application.

The proposal would repeal §83.402, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code, §342.152. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Proposed amendments to §83.403 would revise requirements for license renewal. A proposed amendment at §83.403(b) would explain that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. A proposed amendment at §83.403(d) would specify that the OCCC may send notice of delinquency of an annual assessment fee elec-

tronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Proposed amendments to §83.404 would revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

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

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will better enable the OCCC use its existing authority under Texas Finance Code, §14.109, to use NMLS as a licensing system, resulting in an improved user experience, efficiency for multistate entities, and an improved ability for consumers to access data about business licenses. Transitioning to NMLS will help minimize the costs of updating the OCCC's legacy technological systems.

In general, the OCCC anticipates that any economic costs for persons required to comply with the proposed rule changes will be minimal. Following an NMLS transition period earlier in 2025, a majority of regulated lender licensees have transitioned to NMLS. Licensees that failed to transition to NMLS may be subject to fees charged by NMLS to process a new application. Some labor costs may result from uploading information and documents to NMLS, but the OCCC anticipates that these costs will be minimal, because licensees should have this information available in the licensee's own records. During the NMLS transition period, the OCCC attempted to minimize costs by requiring existing licensees to provide only a core set of information and documents.

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

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would both expand and limit current §83.306 by adding references to certain cybersecurity-related information and removing unnecessary rule text. The proposal would limit current §83.302, §83.303, §83.308, and §83.311 by simplifying and streamlining current requirements. The proposal would repeal current §83.304, §83.305, and §83.402. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. The commission invites any comments with information related to the cost, benefit, or effect of the proposed rule changes, including any applicable data, research, or analysis, from any person required to comply with the proposed rule changes or any other interested person. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

SUBCHAPTER A. RULES FOR REGULATED LENDERS

DIVISION 3. APPLICATION PROCEDURES

7 TAC §§83.301 - 83.303, 83.306 - 83.309, 83.311

The rule changes are proposed under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 342.

§83.301. Definitions.

Words and terms used in this subchapter that are defined in Texas Finance Code, Chapter 342, have the same meanings as defined in Chapter 342. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) [~~(1)~~] Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property

subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days. Debt that is either unsecured or secured by current assets may be subordinated to the net asset requirement pursuant to an agreement of the parties providing that the creditor forfeits its security priority and any rights it may have to current assets in the amount of $25,000. Debt subject to such a subordination agreement would not be an applicable liability for purposes of calculating net assets.

(3)[(~~2~~)] NMLS--The Nationwide Multistate Licensing System. [~~Principal party--An adult individual with a substantial relationship to the proposed lending business of the applicant. The following individuals are principal parties:~~]

[~~(A) a proprietor;~~]

[~~(B) general partners;~~]

[~~(C) officers of privately held corporations, to include the chief executive officer or president, the chief operating officer or vice president of operations, the chief financial officer or treasurer, and those with substantial responsibility for lending operations or compliance with Texas Finance Code, Chapter 342;~~]

[~~(D) directors of privately held corporations;~~]

[~~(E) individuals associated with publicly held corporations designated by the applicant as follows:~~]

[~~(i)~~ ~~officers as provided by subparagraph (C) of this paragraph (as if the corporation were privately held); or~~]

[~~(ii)~~ ~~three officers or similar employees with significant involvement in the corporation's activities governed by Texas Finance Code, Chapter 342. One of the persons designated must be responsible for assembling and providing the information required on behalf of the applicant and must sign the application for the applicant;~~]

[~~(F) voting members of a limited liability company;~~]

[~~(G) trustees and executors; and~~]

[~~(H) individuals designated as principal parties where necessary to fairly assess the applicant's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly as required by the commissioner.~~]

§83.302. Filing of New Application.

(a) NMLS. In order to submit a regulated lender license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application. [~~An application for issuance of a new regulated loan license must be submitted in a format prescribed by the OCCC at the date of filing and in accordance with the OCCC's instructions. The OCCC may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed with the application and the application must include the following:~~]

[~~(1) Required application information. All questions must be answered.~~]

[~~(A) Application for license.~~]

[~~(i)~~ ~~Location. A physical street address must be listed for the applicant's proposed lending address. A post office box or a mail box location at a private mail-receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.~~]

[~~(ii)~~ ~~Responsible person. The person responsible for the day-to-day operations of the applicant's proposed offices must be named. The responsible person is also known as the location contact.~~]

[~~(iii)~~ ~~Signature. Electronic signatures will be accepted in a manner approved by the commissioner. Each applicant must have the application signed by an authorized individual.~~]

[~~(B) Owners and principal parties.~~]

[~~(i)~~ ~~Proprietorships. The applicant must disclose the name of any individual holding an ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.~~]

[~~(ii)~~ ~~General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.~~]

[~~(iii)~~ ~~Limited partnerships. Each partner, general and limited, must be listed and the percentage of ownership stated.~~]

[~~(I)~~ ~~General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.~~]

[~~(II)~~ ~~Limited partners. The applicant should provide a complete list of all limited partners owning 10% or more of the partnership.~~]

[~~(III)~~ ~~Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.~~]

[~~(iv)~~ ~~Corporations. Each officer and director must be named. Each shareholder holding 10% or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% or greater.~~]

[~~(v)~~ ~~Limited liability companies. Each "manager," "officer," and "member" owning 10% or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% or greater.~~]

[~~(vi)~~ ~~Trusts or estates. Each trustee or executor, as appropriate, must be listed.~~]

[(C) Disclosure questions. All applicable questions must be answered. Questions requiring a "yes" answer must be accompanied by an explanatory statement and any appropriate documentation requested.]

[(D) Registered agent. The registered agent must be provided by each applicant. The registered agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered agent is a natural person, the address must be a different address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered agent should be the registered agent on file with the Office of the Texas Secretary of State. If the registered agent is not the same as the registered agent filed with the Office of the Texas Secretary of State, then the applicant must submit certification from the secretary of the company identifying the registered agent.]

[(E) Personal affidavit. Each individual meeting the definition of "principal party" as defined in §83.301 of this title (relating to Definitions) must provide a personal affidavit. All requested information must be provided.]

[(F) Personal questionnaire. Each individual meeting the definition of "principal party" as defined in §83.301 of this title must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.]

[(G) Employment history. Each individual meeting the definition of "principal party" as defined in §83.301 of this title must provide an employment history. Each principal party should provide a continuous 10-year history accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.]

[(H) Statement of experience. Each applicant should provide a statement setting forth the details of the applicant's prior experience in the lending or credit granting business. If the applicant or its principal parties do not have significant experience in the same type of credit business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.]

[(I) Business operation plan. Each applicant must provide a brief narrative to the application explaining the type of lending operation that is planned. This narrative should discuss each of the following topics:]

[(i) the source of customers;]

[(ii) the purpose(s) of loans;]

[(iii) the size of loans;]

[(iv) the source of working capital for planned operations;]

[(v) whether the applicant will only be arranging or negotiating loans for another lender or financing entity;]

[(vi) if the applicant will only be arranging or negotiating loans for another lender or financing entity, the lender must also provide:]

[(I) a list of the lenders for whom the applicant will be arranging or negotiating loans;]

[(II) whether the loans will be collected at the location where the loans are made; and]

[(III) if the loans will not be collected at the location where the loans are made, the identification of the person or firm that will be servicing the loans, including the location at which the loans will be serviced, and a detailed description of the process to be utilized in collections.]

[(J) Financial statement and supporting financial information.]

[(i) All entity types. The financial statement must be dated no earlier than 60 days prior to the date of application. Applicants may also submit audited financial statements dated within one year prior to the application date in lieu of completing the supporting financial information. All financial statements must be certified as true, correct, and complete. If requested, a bank confirmation to confirm account balance information with financial institutions must be submitted.]

[(ii) Sole proprietorships. Sole proprietors must complete all sections of the financial statement and supporting financial information, or provide a personal financial statement that contains all of the same information requested by the financial statement and supporting financial information. The financial statement and supporting financial information must be as of the same date.]

[(iii) Partnerships. A balance sheet for the partnership itself as well as each general partner must be submitted. In addition, the information requested in the supporting financial information must be submitted for the partnership itself and each general partner. All of the balance sheets and supporting financial information documents for the partnership and all general partners must be as of the same date.]

[(iv) Corporations and limited liability companies. Corporations and limited liability companies must file a balance sheet that complies with generally accepted accounting principles (GAAP). The information requested in the supporting financial information must be submitted. The balance sheet and supporting financial information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the corporate or limited liability company applicant should contain no personal financial information.]

[(v) Trusts and estates. Trusts and estates must file a balance sheet that complies with generally accepted accounting principles (GAAP). The information requested in the supporting financial information must be submitted. The balance sheet and supporting financial information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the trust or estate applicant should contain no personal financial information.]

[(K) Assumed name certificates. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, an assumed name certificate must be filed as provided in this subparagraph.]

[(i) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name must file an assumed name certificate with the county clerk of the county where the proposed business is located in compliance with Texas Business and Commerce Code, §71.002. An applicant must provide a copy of the assumed name certificate that shows the filing stamp of the county clerk or, alternatively, a certified copy.]

[(ii) Incorporated applicants. Incorporated applicants using or planning to use an assumed name must file an assumed name certificate in compliance with Texas Business and Commerce Code, §71.002. Evidence of the filing bearing the filing stamp of the Office of the Texas Secretary of State must be submitted or, alternatively, a certified copy.]

[(2) Other required filings.]

[(A) Fingerprints.]

[(i) For all persons meeting the definition of "principal party" as defined in §83.301 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.]

[(ii) For limited partnerships, if the owners and principal parties under paragraph (1)(B)(iii)(I) of this section does not produce a natural person, the applicant must provide a complete set of legible fingerprints for individuals who are associated with the general partner as principal parties.]

[(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The OCCC may approve the request, seek alternative appropriate individuals, or deny the request.]

[(iv) For individuals who have previously been licensed by the OCCC and principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints.]

[(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted to the OCCC, as per Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.]

[(B) Loan forms. The applicant must provide information regarding all loan forms it intends to use.]

[(i) Custom forms. If a custom loan form is to be prepared, a preliminary draft or proof that is complete as to format and content and which indicates the number and distribution of copies to be prepared for each transaction must be submitted.]

[(ii) Stock forms. If an applicant purchases or plans to purchase stock forms from a supplier, the applicant must include a statement that includes the supplier's name and address and a list identifying the forms to be used, including the revision date of the form, if any.]

[(C) Entity documents.]

[(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.]

[(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;]

[(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application;]

[(III) a certificate of good standing from the Texas Comptroller of Public Accounts;]

[(IV) if the registered agent is not the same as the one filed with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;]

[(V) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation; and]

[(VI) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application.]

[(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held corporation must file the most recent 10K or 10Q for the applicant or for the parent company.]

[(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the articles of organization;]

[(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application;]

[(III) a certificate of good standing from the Texas Comptroller of Public Accounts;]

[(IV) if the registered agent is not the same as the one filed with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;]

[(V) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations; and]

[(VI) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors a listed in the owners and principal parties section of the application.]

[(v) Trusts. A copy of the relevant portions of the instrument that created the trust addressing management of the trust and operations of the applicant must be filed with the application.]

[(vi) Estates. A copy of the instrument establishing the estate must be filed with the application.]

[(vii) Foreign entities. In addition to the items required by this section, a foreign entity must provide:]

[(I) a certificate of authority to do business in Texas, if applicable; and]

[(II) a statement of where records of Texas loan transactions will be kept. If these records will be maintained at a location outside of Texas, the applicant must acknowledge responsibility for the travel costs associated with examinations in addition to the usual

assessment fee or agree to make all the records available for examination in Texas.]

[(viii) Formation document alternative. As an alternative to the entity-specific formation document applicable to the applicant's entity type (e.g., for a corporation, articles of incorporation), an applicant may submit a "certificate of formation" as defined in Texas Business Organizations Code, §1.002, if the certificate of formation provides the entity formation information required by this section for that entity type.]

[(D) Bond. The commissioner may require a bond under Texas Finance Code, §342.102, when the commissioner finds that this would serve the public interest. When a bond is required, the commissioner will give written notice to the applicant. Should a bond not be submitted within 40 calendar days of the date of the commissioner's notice, any pending application may be denied.]

[(3) Subsequent applications (branch offices). If the applicant is currently licensed and filing an application for a new office, the applicant must provide the information that is unique to the new location including the application for license, disclosure questions, owners and principal parties, and a new financial statement as provided in paragraph (1)(J) of this section. The responsible person at the new location must be listed. Other information required by this section need not be filed if the information on file with the OCCC is current and valid.]

(b) Company license application. A company license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A company form including the name of the applicant entity, any assumed names or other trade names, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, size of loans, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

(8) An assumed name certificate for each assumed name that the applicant will use.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 60 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) Loan forms that the applicant intends to use, including disclosures and loan contracts.

(c) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 342.

(d) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§83.303. Transfer of License; New License Application on Transfer of Ownership.

(a) Purpose. This section describes the license application requirements when a licensed entity transfers [its license or] ownership of the entity. If a transfer of ownership occurs, the transferee must submit [either a license transfer application or] a new license application on transfer of ownership under this section.

(b) Definitions. The following words and terms, when used in this section, will have the following meanings:

(1) License transfer--A sale, assignment, or transfer of a regulated loan license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a substantial portion of the assets of a licensed entity (including acquisition by gift, devise, or descent)from the licensed entity to another entity, [or a substantial portion of a licensed entity's assets,] where a substantial change in management or control of the business occurs. The term does not include a change in the identities of the direct or indirect owners of a single licensed entity, as addressed in §83.306 of this title (relating to Required Notifications) [proportionate ownership as defined in §83.304 of this title (relating to Change in Form or Proportionate Ownership)] or a relocation of regulated transactions from one licensed location to another licensed location of the same licensee [, as described by §83.308(c) of this title (relating to Relocation)]. Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license; and

[(B) any purchase or acquisition of control of a licensed general partnership, in which a partner relinquishes that owner's entire interest or a new general partner obtains an ownership interest;]

[(C) any change in ownership of a licensed limited partnership interest in which:]

[(i) a limited partner owning 10% or more relinquishes that owner's entire interest;]

[(ii) a new limited partner obtains an ownership interest of 10% or more;]

[(iii) a general partner relinquishes that owner's entire interest; or]

[(iv) a new general partner obtains an ownership interest (transfer of ownership occurs regardless of the percentage of ownership exchanged of the general partner);]

[(D) any change in ownership of a licensed corporation in which:]

[(i) a new stockholder obtains 10% or more of the outstanding voting stock in a privately held corporation;]

[(ii) ~~an existing stockholder owning 10% or more relinquishes that owner's entire interest in a privately held corporation;~~]

[(iii) ~~any purchase or acquisition of control of 51% or more of a company that is the parent or controlling stockholder of a licensed privately held corporation occurs; or~~]

[(iv) ~~any stock ownership changes that result in a change of control (i.e., 51% or more) for a licensed publicly held corporation occur;~~]

~~[(E) any change in the membership interest of a licensed limited liability company:~~]

[(i) ~~in which a new member obtains an ownership interest of 10% or more;~~]

[(ii) ~~in which an existing member owning 10% or more relinquishes that member's entire interest; or~~]

[(iii) ~~in which a purchase or acquisition of control of 51% or more of any company that is the parent or controlling member of a licensed limited liability company occurs;~~]

(B) [~~(F)~~] any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location; and

~~[(G) any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.~~]

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No regulated loan license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §342.163. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete [~~approved~~] when the OCCC has approved the transferee's new license application and the transferor's license surrender [~~issues its final written approval of a license transfer application~~].

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete [~~license transfer application or~~] new license application on transfer of ownership in accordance with subsection (e). A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for [~~a license transfer application or~~] a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a regulated loan license at the time of the application, then the application must include the information required for new license applications under §83.302 of this title (relating to Filing of New Application). The instructions in §83.302 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a regulated loan license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, owners and principal parties, and a new financial statement, as provided in §83.302 of this title. The instructions in §83.302 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §83.302 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e).

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e), by the deadline described by subsection (d), then the transferee may engage in business as a regulated lender. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the trans-

feree has a right to a hearing on the denial, as provided by §83.307(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing regulated lender activity under a license, the transferor is responsible to any consumer and to the OCCC for all regulated lender activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing regulated lender activity under a license before the OCCC's final approval of an application described by subsection (e), then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After the OCCC's final approval of an application described by subsection (e), the transferee is responsible to any consumer and to the OCCC for all regulated lender activity performed under the license. The transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

§83.306. Required Notifications. [~~Updating Application and Contact Information.~~]

(a) Advance change notice. No later than the date of the change (or an earlier date specified in the OCCC's written instructions), a licensee must notify the OCCC of a change to any of the following information provided in the original license application: [~~Applicant's updates to license application information. Before a license application is approved, an applicant must report to the OCCC any information that would require a materially different answer than that given in the original license application and that relates to the qualifications for license within 10 calendar days after the person has knowledge of the information.~~]

(1) legal name of entity;

(2) any assumed names of entity;

(3) legal status of entity (e.g., change in organizational form from partnership to corporation); or

(4) names of direct owners or indirect owners;

(5) names of affiliates or subsidiaries;

(6) names of any key individuals;

(7) main address; or

(8) address of any branch location.

(b) Other required notifications. No later than 30 days after the licensee has knowledge of the information, a licensee must report the following information to the OCCC: [~~Licensee's updates to license application information. A licensee must report to the OCCC any information that would require a different answer than that given in the original license application within 30 calendar days after the licensee has knowledge of the information, if the information relates to any of the following:~~]

(1) any civil or regulatory actions against the licensee or key individuals that were not disclosed in the original application and would require a different answer than that given in the original license application [~~the names of principal parties~~];

(2) criminal history of the licensee or key individuals that was not disclosed in the original application;

(3) any bankruptcy of the licensee or a direct owner [~~actions by regulatory agencies~~]; or

(4) any breach of system security under Texas Business & Commerce Code, §521.053, affecting at least 250 residents of this state [~~court judgments~~].

(c) Contact information. Each applicant or licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct, including all mailing addresses, all phone numbers, and all email [~~e-mail~~] addresses. The OCCC may send notices to the mailing address or email address on file. It is a best practice for licensees to regularly review contact information on file with the OCCC to ensure that it is current and correct.

§83.307. Processing of Application.

(a) Initial review. A response to an incomplete application will ordinarily be made within 14 calendar days of receipt stating that the application is incomplete and specifying the information required for acceptance.

(b) Complete application. An application is complete when:

(1) it conforms to the rules and published instructions;

(2) all fees have been paid; and

(3) all requests for additional information have been satisfied.

(c) Failure to complete application and deemed withdrawal. If a complete application has not been filed within 30 calendar days after notice of deficiency has been sent to the applicant, the application may be considered withdrawn [~~denied~~].

(d) Notice of intent to deny application. If an applicant files a complete license application but the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) [~~(d)~~] Hearing. An [~~Whenever an application is denied, the~~] affected applicant has 30 calendar days from the date of the notice of intent to deny the license application [~~the application was denied~~] to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

[~~(e) Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee in §83.310 of this title (relating to Fees) will be forfeited.~~]

(f) Processing time.

(1) A license application will ordinarily be approved or denied within [~~a maximum of~~] 60 calendar days after the date of filing of a completed application.

(2) When a hearing is requested following an initial license application denial, the hearing will ordinarily be scheduled for a date [~~held~~] within 60 calendar days after a request for a hearing is made, unless the parties agree to an extension of time. A final decision approving or denying the license application will be made after receipt of the proposal for decision from the administrative law judge.

(3) Exceptions. More time may be taken where good cause exists, as defined by Texas Government Code, §2005.004, for exceeding the established time periods in paragraphs (1) and (2) of this subsection.

§83.308. Relocation.

[(a) Filing requirements. A licensee may move the licensed office from the licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 30 calendar days prior to the anticipated moving date. Notification must be filed on the Amendment to Regulated Loan License or an approved electronic submission as prescribed by the commissioner. The notice must include the contemplated new address of the licensed office, the approximate date of relocation, a copy of the notice to debtors, and the applicable fee as outlined in §83.310 of this title (relating to Fees).]

(a) [(b)] Notice to debtors. Written notice of a relocation of an office, or of transactions as outlined in subsection (c) of this section, must be mailed to all debtors of record at least five calendar days prior to the date of relocation. A licensee may send notice to a debtor by email in lieu of mail if the debtor has provided an email address to the licensee and has consented in writing to be contacted at the email address. Any licensee failing to give the required notice must waive all default charges on payments coming due from the date of relocation to 15 calendar days subsequent to the mailing of notices to debtors. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to debtors can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. The commissioner may approve notification to debtors by signs in lieu of notification by mail, if in the commissioner's opinion, no debtors will be adversely affected.

(b) [(c)] Relocation of regulated transactions. If the licensee is only relocating or transferring regulated transactions from one licensed location to another licensed location, the licensee must comply with subsection (b) of this section and provide, if requested, a list of regulated transactions relocated or transferred. This list of relocated or transferred regulated transactions must include the loan number and the full name of the debtor.

§83.309. License Inactivation or Voluntary Surrender.

(a) Inactivation of active license. A licensee may cease operating under a regulated loan license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §83.310 of this title (relating to Fees), or the license will expire as described by §83.403 of this title (relating to License Term and Annual Renewal).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §83.310 of this title.

(c) Voluntary surrender of license. Subject to §83.406(b) of this title (relating to Effect of Revocation, Suspension, or Surrender of License), a licensee may request voluntary [voluntarily] surrender of a license by providing the information required by the OCCC's written instructions [written notice of the cessation of operations, a request to surrender the license, and the license certificate]. A surrender is effective when the OCCC approves the surrender. A voluntary surrender will result in cancellation of the license.

§83.311. Applications and Notices as Public Records.

Once a license application or notice is filed with the OCCC, it becomes a "state record" under Texas Government Code, §441.180(11), and "public information" under Government Code, §552.002. Under Government Code, §441.190, §441.191 and §552.004, the original applications and notices must be preserved as "state records" and "public information" unless destroyed with the approval of the director and librarian of the State Archives and Library Commission under Government Code, §441.187. [Under Government Code, §441.191, the OCCC may not return to the applicant or licensee any original documents associated with a regulated loan license application or notice.] An individual may request copies of a state record under the authority of the Texas Public Information Act, Government Code, Chapter 552.

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

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Matthew Nance
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For further information, please call: (512) 936-7660

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7 TAC §83.304, §83.305

The rule changes are proposed under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 342.

§83.304. Change in Form or Proportionate Ownership.

§83.305. Amendments to Pending Application.

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

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DIVISION 4. LICENSE

7 TAC §83.402

The rule changes are proposed under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 342.

§83.402. License Display.

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

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♦ ♦ ♦

7 TAC §83.403, §83.404

The rule changes are proposed under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 342.

§83.403. License Term, Renewal, and Expiration.

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

(b) NMLS. To maintain and renew a license, a licensee must maintain an active account in NMLS (or a successor system designated by the OCCC). The OCCC may make renewal unavailable to a licensee that fails to maintain an active account.

(c) [~~(b)~~] Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(d) [~~(c)~~] Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice of delinquency is given when the OCCC sends the notice electronically through NMLS or by email to the primary company contact.[~~:~~]

[~~(1) by mail to the address on file with the OCCC as a master file address; or~~]

[~~(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.~~]

(e) [~~(d)~~] Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

(f) [~~(e)~~] Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a license was in good standing when it expired, a person may reinstate the expired license not later than the 180th day after its expiration date by paying the annual assessment fee and a $1,000 late filing fee.

§83.404. Denial, Suspension, or Revocation Based on Criminal History.

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §83.310 of this title (relating to Fees), the OCCC will investigate the applicant and its principal parties. The OCCC will obtain criminal history record information through NMLS [~~from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission~~]. The OCCC will continue to receive information on new criminal activity reported after the license application has [~~fingerprints have~~] been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its key individuals [~~principal parties~~];

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) (No change.)

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §342.104(a)(1). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its key individuals [~~principal parties~~]. If the applicant or a key individual [~~principal party~~] has been convicted of an offense described by subsections (c)(1) or (f)(1) of this section, this reflects negatively on an applicant's character and fitness. The OCCC

may deny a license application based on other criminal history of the applicant or its key individuals [~~principal~~ ~~parties~~] if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) - (f) (No change.)

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

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CHAPTER 89. PROPERTY TAX LENDERS

The Finance Commission of Texas (commission) proposes amendments to §89.206 (relating to Application for Exemption), §89.207 (relating to Files and Records Required), §89.301 (relating to Definitions), §89.302 (relating to Filing of New Application), §89.303 (relating to Transfer of License; New License Application on Transfer of Ownership), §89.306 (relating to Updating Application and Contact Information), §89.307 (relating to Processing of Application), §89.308 (relating to Relocation of Licensed Offices), §89.309 (relating to License Inactivation or Voluntary Surrender), §89.311 (relating to Applications and Notices as Public Records), §89.403 (relating to License Term, Renewal, and Expiration), and §89.405 (relating to Denial, Suspension, or Revocation Based on Criminal History); proposes the repeal of §89.304 (relating to Change in Form or Proportionate Ownership), §89.305 (relating to Amendments to Pending Application), and §89.402 (relating to License Display); and proposes new §89.806 (relating to Payoff Request from Borrower) in 7 TAC Chapter 89, concerning Property Tax Lenders.

The rules in 7 TAC Chapter 89 govern property tax loans. In general, the purpose of the proposed rule changes to 7 Chapter 89 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 89 was published in the *Texas Register* on May 31, 2024 (49 TexReg 3937). The commission received three informal comments and one official comment in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received four precomments from stakeholders, consisting of one precomment from an association of property tax lenders, two precomments from a law firm representing property tax lenders, and one precomment from a property tax lender. The OCCC appreciates the thoughtful input of stakeholders.

A proposed amendment to §89.206 would remove a requirement to provide an individual's Social Security number on the form for an individual's exemption from licensing. Under Texas Finance Code, §351.051(c), certain individuals are exempt from licensing as property tax lenders, including individuals making five or fewer property tax loans in any consecutive 12-month period from the individual's own funds. This proposed amendment would minimize sensitive personal information collected by the OCCC.

Proposed amendments to §89.207 would update recordkeeping requirements for property tax lenders. Currently, provisions throughout §89.207 refer to both paper and electronic recordkeeping systems. Proposed amendments throughout §89.207 would simplify and rearrange this language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Currently, §89.207(3)(L) describes different sets of records to be maintained for judicial foreclosures and nonjudicial foreclosures. Property tax lenders' ability to perform nonjudicial foreclosures was previously codified in Texas Tax Code, §32.06(c)(2), and was repealed in 2013 (SB 247 (2013)). Because the authority to perform nonjudicial foreclosures was repealed, the commission and the OCCC believe that it is no longer necessary to describe two different sets of documents, and that the rule should be simplified to describe one set of documents for foreclosures.

In a precomment, a law firm representing property tax lenders recommended revising the current requirements on recordkeeping for the notice to cure the default and the notice of intent to accelerate, to remove the phrase "including verification of delivery of the notice," which is currently used in §89.207(L)(i)(II)-(III), because service is complete under Texas Property Code, §51.002(e) when the notice is placed in the mail. In response to this suggestion, the proposed version of this provision at §89.207(L)(ii)-(iii) states that the record includes "any mail tracking or other verification of delivery of the notice," with the word "any" indicating that property tax lenders would be required to maintain the information if they obtain it.

Additional proposed amendments to §89.207 relate to data security recordkeeping. A proposed amendment at §89.207(9)(A) specifies that licensees must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another proposed amendment at §89.207(9)(B) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. A proposed amendment at §89.207(10) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The proposed data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

Proposed amendments and repeals in §89.301 through §89.405 would implement the OCCC's transition to the NMLS system.

The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including property tax lender licenses under Texas Finance Code, Chapter 351. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2025, licensed property tax lenders completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Proposed amendments to §89.301 would replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS.

Proposed amendments to §89.302 would streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §89.302 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the proposed amendments would significantly simplify §89.302, and ensure that an applicant can easily read and understand the rule. A proposed amendment at §89.302(c) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. A proposed amendment at §89.302(d) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that would be removed from §89.306(a), as explained later in this preamble.

Proposed amendments to §89.303 would streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §89.303(b)(3), proposed amendments to the definition of "transfer of ownership" would limit the definition to focus on transfers from one company to another. Going forward in NMLS, the OCCC anticipates that changes to the identifies of a single company's owners will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §89.306. A proposed amendment to §89.303(c) would explain that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. Other proposed amendments throughout §89.303 would ensure consistency with this revised transfer process.

The proposal would repeal §89.304, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §89.306. Therefore, §89.304 will no longer be necessary.

The proposal would repeal §89.305, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the proposed amendment at §89.302(c) explaining the OCCC may require additional information, §89.305 will no longer be necessary.

Proposed amendments to §89.306 would consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §89.306(a), the proposed amendments would list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in accordance with an agency's written instructions. As explained in the proposed amendments to §89.306(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §89.306(b), proposed amendments would list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents, helping to ensure that the OCCC can effectively monitor the crucial issue of cybersecurity (as discussed earlier in the discussion of proposed amendments to §89.207).

Proposed amendments to §89.307 would revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §351.104. A proposed amendment at §89.307(d) would explain that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Under Texas Finance Code, §351.104(b), if the OCCC finds that a license applicant has not met the eligibility requirements for a license, then the OCCC will notify the applicant. Under Texas Finance Code, §351.104(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Proposed amendments at §89.307(d) would specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §351.104(b). Proposed amendments at §89.307(e) would revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas Finance Code, §351.104(c). A proposed amendment would remove current §89.307(e), regarding disposition of fees, because this language unnecessarily duplicates language in §89.310 (regarding Fees). Proposed amendments to §89.307(f) would clarify the 60-day target period to process a license application and the 60-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §351.104(c)-(d).

Proposed amendments to §89.308 would revise requirements for notice of relocation of licensed offices. The proposal would remove current §89.308(a), because the requirement to notify the OCCC of a branch office relocation will be moved to §89.306(a) as an advance change notice, as discussed earlier in this preamble. A proposed amendment to current §89.308(b)

would explain that a licensee may send notice of a relocation to a debtor by email if the debtor has provided an email address and consented in writing to be contacted at the email address, in order to accommodate electronic communications.

Proposed amendments to §89.309 would revise requirements for license surrender. The proposed amendment would explain that a licensee may surrender a license by providing the information required by the OCCC's written instruction, in accordance with Texas Finance Code, §351.160, and that a surrender is effective when the OCCC approves the surrender.

Proposed amendments to §89.311 would remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCCC no longer accepts original paper documents with a license application.

The proposal would repeal §89.402, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code, §351.152. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Proposed amendments to §89.403 would revise requirements for license renewal. A proposed amendment at §89.403(b) would explain that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. A proposed amendment at §89.403(d) would specify that the OCCC may send notice of delinquency of an annual assessment fee electronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Proposed amendments to §89.405 would revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

Proposed new §89.806 would describe requirements for property tax loan payoff requests authorized by a borrower. Currently, the rules in §89.801 through §89.805 describe requirements for payoff requests from another lienholder to a property tax lender, but these sections do not describe requirements for a payoff request that is authorized by a borrower. Property tax lenders have requested that the OCCC provide guidance and clear standards on this issue, in order to ensure that the payoff process functions properly, that borrowers are enabled to pay off their property tax loans in a reasonable amount of time, and that property tax lenders are able to safeguard borrowers' personal information. Consistent with the prohibition on prepayment penalties in Texas Tax Code, §32.065(d), and Texas Finance Code, §343.205 and §351.0021(a)(9), a borrower has a right to pay off a property tax loan early. Proposed new §89.806(a) would explain this right. Proposed new §89.806(b) would describe the payoff request process that should be used if a property tax lender obtains a borrower's authorization to pay off a property tax loan held by an existing property tax lender. This includes guidelines for the authorized property tax lender to obtain the borrower's written authorization and send the payoff request, as well as guidelines for the existing property tax lender to provide a payoff statement.

The OCCC received three precomments dealing with the proposed new payoff rule at §89.806. All three precomments expressed support for having clear guidelines on this issue, although stakeholders differed in suggestions for the timing of the payoff statement and technical requirements for the borrower's authorization. Regarding the timing of the payoff statement, two precommenters suggested a seven-business-day period, while one precommenter suggested a three-day period. The commission and the OCCC believe that a seven-business-day period is appropriate and consistent with industry standards. This period is also consistent with the current seven-business-day requirement for payoff statements that property tax lenders provide to other lienholders under 7 TAC §89.802(i) (relating to Payoff Statements). For this reason, proposed §89.806(b)(3) contains a seven-business-day period for providing the payoff statement. Regarding technical requirements for the borrower's authorization, one precommenter suggested that the proof of authorization include a certificate of authenticity containing the signer's name, IP address, email address, and date and time of signing. Another precommenter suggested that concerns about the inability to verify payoff authorizations are "not genuine," and that payoff authorizations from a licensed lender should be presumed valid under a "safe harbor." Regarding technical requirements, the commission and the OCCC believe that concerns about validation are genuine, but want to ensure that the rule remains flexible enough to accommodate changing technology. The proposed amendments to §89.806 contain language explaining that lenders must maintain proof of electronic signatures "in accordance with standards for electronic signatures." The commission and the OCCC invite additional comments on standards that can accommodate changing technology, while also supporting borrowers' payoff rights and the safeguarding of borrowers' information.

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

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules. In particular, the rule changes governing the transition to the NMLS licensing system will better enable the OCCC use its existing authority under Texas Finance Code, §14.109, to use NMLS as a licensing system, resulting in an improved user experience, efficiency for multistate entities, and an improved ability for consumers to access data about business licenses. Transitioning to NMLS will help minimize the costs of updating the OCCC's legacy technological systems.

In general, the OCCC anticipates that any economic costs for persons required to comply with the proposed rule changes will be minimal. Following an NMLS transition period earlier in 2025, property tax lender licensees have transitioned to NMLS. During the NMLS transition period, the OCCC attempted to minimize costs by requiring existing licensees to provide only a core set of information and documents.

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

as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would create a new regulation at §89.806, regarding payoff statements by borrowers, in response to stakeholder requests. The proposal would both expand and limit current §89.207 and §89.306 by adding references to certain cybersecurity-related information and removing unnecessary rule text. The proposal would limit current §89.206, §89.302, §89.303, §89.308, and §89.311 by simplifying and streamlining current requirements. The proposal would repeal current §89.304, §89.305, and §89.402. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. The commission invites any comments with information related to the cost, benefit, or effect of the proposed rule changes, including any applicable data, research, or analysis, from any person required to comply with the proposed rule changes or any other interested person. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

SUBCHAPTER B. AUTHORIZED ACTIVITIES

7 TAC §89.206, §89.207

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.206. Application for Exemption.

(a) For an individual to apply for exemption from licensing under this chapter as a qualifying individual under Texas Finance Code, §351.051(c)(2), the individual must provide a signed, dated, and notarized affidavit containing the following:

(1) the individual's name and address;

[~~(2) the individual's social security number;~~]

(2) [~~(3)~~] the anticipated date of the property tax loan;

(3) [~~(4)~~] a description of the property by legal description, and if applicable, street address; and

(4) [~~(5)~~] a sworn statement that the individual is someone who:

(A) is related to the property owner within the second degree of consanguinity or affinity, as determined under Texas Government Code, Chapter 573; or

(B) makes five or fewer property tax loans in any consecutive 12-month period from the individual's own funds.

(b) - (c) (No change.)

§89.207. Files and Records Required.

Each licensee must maintain records with respect to each property tax loan made under Texas Finance Code, Chapter 351 and Texas Tax Code, §32.06 and §32.065, and make those records available for examination under Texas Finance Code, §351.008. The records required by this section may be maintained by using either an electronic recordkeeping system, a paper or manual recordkeeping system, [~~electronic recordkeeping system, optically imaged recordkeeping system,~~] or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(1) - (2) (No change.)

(3) Property tax loan transaction file. A licensee must maintain an electronic or [a] paper [~~or imaged~~] copy of a property tax loan transaction file for each individual property tax loan or be able to produce the same information within a reasonable amount of time. The property tax loan transaction file must contain documents that show the licensee's compliance with applicable law, including Texas Finance Code, Chapter 351; Texas Tax Code, §32.06 and §32.065, and any applicable state and federal statutes and regulations. If a substantially equivalent electronic record for any of the following documents exists, a paper copy of the record does not have to be included in the property tax loan transaction file if the electronic record can be accessed upon request. The property tax loan transaction file must include copies of the following records or documents, unless otherwise specified:

(A) - (K) (No change.)

(L) For property tax loan transactions involving a foreclosure or attempted foreclosure, the following records [~~required by Texas Tax Code, Chapters 32 and 33~~]:

(i) any records pertaining to the foreclosure, including records from the licensee's attorneys, the court, or the borrower or borrower's agent; [~~For transactions involving judicial foreclosures under Texas Tax Code, §32.06(c):~~]

~~(I)~~ ~~any records pertaining to a judicial foreclosure including records from the licensee's attorneys, the court, or the borrower or borrower's agent;~~]

~~(II)~~ ~~if sent by an attorney who is not an employee of the licensee, any notice to cure the default sent to the property owner and each holder of a recorded first lien on the property as specified by Texas Property Code, §51.002(d) including verification of delivery of the notice;~~]

~~(III)~~ ~~if sent by an attorney who is not an employee of the licensee, any notice of intent to accelerate sent to the~~

property owner and each holder of a recorded first lien on the property, including verification of delivery of the notice;]

[(IV) if sent by an attorney who is not an employee of the licensee, any notice of acceleration sent to the property owner and each holder of a recorded first lien on the property;]

[(V) any written documentation that confirms that the borrower has deferred their property tax on the property subject to the property tax loan as permitted under Texas Tax Code, §33.06, such as the Tax Deferral Affidavit for 65 or Over or Disabled Homeowner, Form 50-126 filed with the appraisal district, attorney, or court;]

[(VI) records relating to the distribution of excess proceeds as required by Texas Tax Code, §34.02 and §34.04;]

[(VII) the foreclosure deed upon sale of the property;]

[(VIII) if the property is purchased at the foreclosure sale by the licensee, copies of receipts or invoices substantiating any amounts reasonably spent by the purchaser in connection with the property as costs within the meaning of Texas Tax Code, §34.21(g);]

(ii) any notice to cure the default sent to the property owner and each holder of a recorded first lien on the property as specified by Texas Property Code, §51.002(d), including any mail tracking or other verification of delivery of the notice; [For transactions closed before May 29, 2013, involving nonjudicial foreclosures under Act of May 7, 1995, 74th Leg., R.S., ch. 131, §1, sec. 32.06(c)(2), 1995 Tex. Gen. Laws 957, as amended by Act of May 25, 2007, 80th Leg., R.S., ch. 1329, §1, sec. 32.06(c)(2), 2007 Tex. Gen. Laws 4484, 4485 (repealed 2013) (previously codified at Texas Tax Code, §32.06(c)(2)):]

[(I) the notice to cure the default sent to the property owner and each holder of a recorded first lien on the property as required by Texas Property Code, §51.002(d) including verification of delivery of the notice;]

[(II) the notice of intent to accelerate sent to the property owner and each holder of a recorded first lien on the property, including verification of delivery of the notice;]

[(III) the notice of acceleration sent to the property owner and each holder of a recorded first lien on the property;]

[(IV) any written documentation that confirms that the borrower has deferred their property tax on the property subject to the property tax loan as permitted under Texas Tax Code, §33.06, such as the Tax Deferral Affidavit for 65 or Over or Disabled Homeowner, Form 50-126 filed with the appraisal district, attorney, or court;]

[(V) the application for Order for Foreclosure under Texas Rules of Civil Procedure, Rule 736.1;]

[(VI) copies of any returns of citations issued under Texas Rules of Civil Procedure, Rule 736.3, showing the date and time the citation was placed in the custody of the U.S. Postal Service;]

[(VII) copies of any responses filed contesting the Application for Order for Foreclosure as described in Texas Rules of Civil Procedure, Rule 736.5;]

[(VIII) the motion and proposed order to obtain a default order, if any, under Texas Rules of Civil Procedure, Rule 736.7;]

[(IX) the order granting or denying the application for foreclosure as specified under Texas Rules of Civil Procedure, Rule 736.8;]

[(X) the notice provided to the recorded preexisting lienholder, at least, 60 days before the date of the proposed foreclosure;]

[(XI) the notice of sale as required by Texas Property Code, §51.002(b) including verification of delivery of the notice;]

[(XII) records relating to the distribution of excess proceeds as required by Texas Tax Code, §34.021 and §34.04;]

[(XIII) the foreclosure deed upon sale of the property;]

[(XIV) if the property is purchased at the foreclosure sale by the licensee, copies of receipts or invoices substantiating any amounts reasonably spent by the purchaser in connection with the property as costs within the meaning of Texas Tax Code, §34.21(g);]

(iii) any notice of intent to accelerate sent to the property owner and each holder of a recorded first lien on the property, including any mail tracking or other verification of delivery of the notice;

(iv) any notice of acceleration sent to the property owner and each holder of a recorded first lien on the property;

(v) any written documentation that confirms that the borrower has deferred property tax on the property subject to the property tax loan as permitted under Texas Tax Code, §33.06, such as the Tax Deferral Affidavit for 65 or Over or Disabled Homeowner, Form 50-126 filed with the appraisal district, attorney, or court;

(vi) records relating to the distribution of excess proceeds as required by Texas Tax Code, §34.02 and §34.04;

(vii) the foreclosure deed upon sale of the property;

(viii) if the property is purchased at the foreclosure sale by the licensee, copies of receipts or invoices substantiating any amounts reasonably spent by the purchaser in connection with the property as costs within the meaning of Texas Tax Code, §34.21(g);

(M) For property tax loans involving one or more electronic signatures, copies of any notices or disclosures provided in connection with the electronic signatures and proof of the signature in accordance with standards for electronic signatures.

(4) - (8) (No change.)

(9) Information security program. A licensee must maintain the following for an information security program:

(A) written policies and procedures for an information security program to protect borrowers' customer information under the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314; and

(B) if a licensee maintains customer information concerning 5,000 or more consumers, a written incident response plan and written risk assessments under 16 C.F.R. §314.4.

(10) Data breach notifications. A licensee must maintain the following for data breach notifications:

(A) the text of any data breach notification provided to borrowers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification; and

(B) any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

(11) [(9)] Retention and availability of records. All books and records required by this section must be available for inspection at any time by OCCC staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon by the licensee, whichever is later, or a different period of time if required by federal law. The records required by this section must be available or accessible at an office in the state designated by the licensee except when the property tax loan transactions are transferred under an agreement which gives the OCCC access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.

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

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Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Earliest possible date of adoption: December 7, 2025
For further information, please call: (512) 936-7660

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SUBCHAPTER C. APPLICATION PROCEDURES

7 TAC §§89.301 - 89.303, 89.306 - 89.309, 89.311

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.301. Definitions.

Words and terms used in this chapter that are defined in Texas Finance Code, Chapter 351 have the same meanings as defined in Chapter 351. The following words and terms, when used in this chapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) [(1)] Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days.

[(2) Parent entity--A direct owner of a licensee or applicant.]

(3) NMLS--The Nationwide Multistate Licensing System.

[(3) Principal party--An adult individual with a substantial relationship to the proposed lending business of the applicant. The following individuals are principal parties:]

[(A) a proprietor;]

[(B) general partners;]

[(C) officers of privately held corporations, to include the chief executive officer or president, the chief operating officer or vice president of operations, the chief financial officer or treasurer, and those with substantial responsibility for lending operations or compliance with Texas Finance Code, Chapter 351;]

[(D) directors of privately held corporations;]

[(E) individuals associated with publicly held corporations designated by the applicant as follows:]

[(i) officers as provided by subparagraph (C) of this paragraph (as if the corporation was privately held); or]

[(ii) three officers or similar employees with significant involvement in the corporation's activities governed by Texas Finance Code, Chapter 351. One of the persons designated must be responsible for assembling and providing the information required on behalf of the applicant and must sign the application for the applicant;]

[(F) voting members of a limited liability company;]

[(G) trustees and executors; and]

[(H) individuals designated as principal parties where necessary to fairly assess the applicant's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly as required by the commissioner.]

§89.302. Filing of New Application.

(a) NMLS. In order to submit a property tax lender license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application. [An application for issuance of a new license must be submitted in a format prescribed by the OCCC at

the date of filing and in accordance with the OCCC's instructions. The OCCC may accept the use of prescribed alternative formats in order to accept approved electronic submissions. Appropriate fees must be filed with the application, and the application must include the following:]

[(1) Required application information. All questions must be answered.]

[(A) Application for license.]

[(i) Location information. A physical street address must be listed for the applicant's proposed lending address, or if the applicant will have no such location, a statement to that effect must be provided. For applicants with a proposed location in Texas, a post office box or a mail box location at a private mail-receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.]

[(ii) Responsible person. The person responsible for the day-to-day operations of the applicant's proposed offices must be named.]

[(iii) Registered agent. The registered agent must be provided by each applicant. The registered agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered agent is a natural person, the address must be a different address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered agent should be the one on file with the Office of the Texas Secretary of State. If the registered agent is not the same as the agent filed with the Office of the Texas Secretary of State, then the applicant must submit a certification from the secretary of the company identifying the registered agent.]

[(iv) Owners and principal parties.]

[(I) Proprietorships. The applicant must disclose the name of any individual holding an ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.]

[(II) General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.]

[(III) Limited partnerships. Each partner, general and limited, fulfilling the requirements of items (-a-) - (-c-) of this subclause must be listed and the percentage of ownership stated.]

[(-a-) General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.]

[(-b-) Limited partners. The applicant should provide a complete list of all limited partners owning 10% or more of the partnership.]

[(-c-) Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.]

[(IV) Corporations. Each officer and director must be named. Each shareholder holding 10% or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]

[(V) Limited liability companies. Each "manager," "officer," and "member" owning 10% or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]

[(VI) Trusts or estates. Each trustee or executor, as appropriate, must be listed.]

[(VII) All entity types. If a parent entity is a different type of legal business entity than the applicant, the parent entity's owners and principal parties should be disclosed according to the parent's entity type.]

[(B) Disclosure questions. All applicable questions must be answered. Questions requiring a "yes" answer must be accompanied by an explanatory statement and any appropriate documentation requested.]

[(C) Personal information.]

[(i) Personal affidavit. Each individual meeting the definition of "principal party" as defined in §89.301 of this title (relating to Definitions) or who is a person responsible for day-to-day operations must provide a personal affidavit. All requested information must be provided.]

[(ii) Personal questionnaire. Each individual meeting the definition of "principal party" as defined in §89.301 of this title or who is a person responsible for day-to-day operations must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.]

[(iii) Employment history. Each individual meeting the definition of "principal party" as defined in §89.301 of this title or who is a person responsible for day-to-day operations must provide an employment history. Each principal party should provide a continuous 10-year history, accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.]

[(D) Additional requirements.]

[(i) Statement of experience. Each applicant should provide a statement setting forth the details of the applicant's prior experience in the lending or credit granting business. If the applicant or its principal parties do not have significant experience in the same type of credit business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.]

[(ii) Business operating plan. Each applicant must provide a brief narrative explaining the type of lending operation that is planned. This narrative should discuss each of the following topics:]

[(I) the source of customers;]

[(II) the purpose(s) of loans;]

[(III) the size of loans;]

[(IV) the source of working capital for planned operations;]

[(V) whether the applicant will only be arranging or negotiating loans for another lender or financing entity;]

[(VI) if the applicant will only be arranging or negotiating loans for another lender or financing entity, the licensee must also provide:]

[(-a-) a list of the lenders for whom the applicant will be arranging or negotiating loans;]

[(-b-) whether the loans will be collected at the location where the loans are made; and]

[(-c-) if the loans will not be collected at the location where the loans are made, the identification of the person or firm that will be servicing the loans, including the location at which the loans will be serviced, and a detailed description of the process to be utilized in collections.]

[(iii) Statement of records. Each applicant must provide a statement of where records of Texas transactions will be maintained. If these records will be maintained at a location outside of Texas, the applicant must acknowledge responsibility for the travel cost associated with examinations in addition to the assessment fees or agree to make all records available for examination in Texas.]

[(E) Consent form. Each applicant must submit a consent form signed by an authorized individual. Electronic signatures will be accepted in a manner approved by the commissioner. The following are authorized individuals:]

[(i) If the applicant is a proprietor, each owner must sign.]

[(ii) If the applicant is a partnership, each general partner must sign.]

[(iii) If the applicant is a corporation, an authorized officer must sign.]

[(iv) If the applicant is a limited liability company, an authorized member or manager must sign.]

[(v) If the applicant is a trust or estate, the trustee or executor, as appropriate, must sign.]

[(2) Other required filings.]

[(A) Fingerprints.]

[(i) For all persons meeting the definition of "principal party" as defined in §89.301 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.]

[(ii) For limited partnerships, if the owners and principal parties under paragraph (1)(A)(iv)(III)(-a-) of this section does not produce a natural person, the applicant must provide a complete set of legible fingerprints for individuals who are associated with the general partner as principal parties.]

[(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The agency may approve the request, seek alternative appropriate individuals, or deny the request.]

[(iv) For individuals who have previously been licensed by the OCCC and principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints in order to complete the OCCC's records.]

[(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted to the OCCC, as per Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.]

[(B) Loan forms. The applicant must provide information regarding all loan forms it intends to use.]

[(i) Custom forms. If a custom loan form is to be prepared, a preliminary draft or proof that is complete as to format and content and which indicates the number and distribution of copies to be prepared for each transaction must be submitted.]

[(ii) Stock forms. If an applicant purchases or plans to purchase stock forms from a supplier, the applicant must include a statement that includes the supplier's name and address and a list identifying the forms to be used, including the revision date of the form, if any.]

[(C) Entity documents.]

[(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.]

[(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;]

[(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(III) if the registered agent is not the same as the one on file with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;]

[(IV) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation;]

[(V) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.]

[(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held must file the most recent 10K or 10Q for the applicant or for the parent company.]

[(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:]

[(I) a complete copy of the articles of organization;]

[(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(III) if the registered agent is not the same as the one on file with the Office of the Texas Secretary of State, a certification from the secretary of the company identifying the registered agent;]

[(IV) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations;]

[(V) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form;]

[(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.]

[(v) Trusts. A copy of the relevant portions of the instrument that created the trust addressing management of the trust and operations of the applicant must be filed with the application.]

[(vi) Estates. A copy of the instrument establishing the estate must be filed with the application.]

[(vii) Foreign entities. In addition to the items required by this section, a foreign entity must provide a certificate of authority to do business in Texas, if applicable.]

[(viii) (viii) Formation document alternative. As an alternative to the entity-specific formation document applicable to the applicant's entity type (e.g., for a corporation, articles of incorporation), an applicant may submit a "certificate of formation" as defined in Texas Business Organizations Code, §1.002, if the certificate of formation provides the entity formation information required by this section for that entity type.]

[(D) Financial statement and supporting financial information.]

[(i) All entity types. The financial statement must be dated no earlier than 90 days prior to the date of application. Applicants may also submit audited financial statements dated within one year prior to the application date in lieu of completing the supporting financial information. All financial statements must be certified as true, correct, and complete, and must comply with generally accepted accounting principles (GAAP).]

[(ii) Sole proprietorships. Sole proprietors must complete all sections of the personal financial statement and the supporting financial information, or provide a personal financial statement that contains all of the same information requested by the personal financial statement and the supporting financial information. The personal financial statement and supporting financial information must be as of the same date.]

[(iii) Partnerships. A balance sheet for the partnership itself as well as each general partner must be submitted. In addition, the information requested in the supporting financial information must be submitted for the partnership itself and each general partner. All of the balance sheets and supporting financial information documents for the partnership and all general partners must be as of the same date.]

[(iv) Corporations and limited liability companies. Corporations and limited liability companies must file a balance sheet. The information requested in the supporting financial information must be submitted. The balance sheet and supporting financial information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the corporate or limited liability company applicant should contain no personal financial information.]

[(v) Trusts and estates. Trusts and estates must file a balance sheet. The information requested in the supporting financial information must be submitted. The balance sheet and supporting financial information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the trust or estate applicant should contain no personal financial information.]

[(E) Assumed name certificates. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, an assumed name certificate must be filed as provided in this subparagraph.]

[(i) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name must file an assumed name certificate with the county clerk of the county where the proposed business is located in compliance with Texas Business and Commerce Code, Chapter 71, as amended. An applicant must provide a copy of the assumed name certificate that shows the filing stamp of the county clerk or, alternatively, a certified copy.]

[(ii) Incorporated applicants. Incorporated applicants using or planning to use an assumed name must file an assumed name certificate in compliance with Texas Business and Commerce Code, Chapter 71, as amended. Evidence of the filing bearing the filing stamp of the Office of the Texas Secretary of State must be submitted or, alternatively, a certified copy.]

[(F) Bond. The commissioner may require a bond under Texas Finance Code, §351.102 when the commissioner finds that it would serve the public interest. When a bond is required, the commissioner will give written notice to the applicant. Should a bond not be submitted within 40 calendar days of the date of the commissioner's notice, any pending application may be denied.]

[(3) Subsequent applications (branch offices). If the applicant is currently licensed and filing an application for a new office, the applicant must provide the information that is unique to the new location, including the application for license, disclosure questions, owners and principal parties, and a new financial statement as provided in paragraph (2)(D) of this section. The person responsible for the day-to-day operations of the applicant's proposed new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by this section need not be filed if the information on file with the OCCC is current and valid.]

(b) Company license application. A company license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A company form including the name of the applicant entity, any assumed names or other trade names, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, size of loans, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

(8) An assumed name certificate for each assumed name that the applicant will use.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 60 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) Loan forms that the applicant intends to use, including disclosures and loan contracts.

(c) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 351.

(d) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§89.303. Transfer of License; New License Application on Transfer of Ownership.

(a) Purpose. This section describes the license application requirements when a licensed entity transfers [~~its license or~~] ownership of the entity. If a transfer of ownership occurs, the transferee must submit [~~either a license transfer application or~~] a new license application on transfer of ownership under this section.

(b) Definitions. The following words and terms, when used in this section, will have the following meanings:

(1) License transfer--A sale, assignment, or transfer of a property tax lender license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a substantial portion of the assets of a licensed entity (including acquisition by gift, devise, or descent) from the licensed entity to another entity, [~~or a substantial portion of a licensed entity's assets,~~] where a substantial change in management or control of the business occurs. The term does not include a change in the identities of the direct or indirect owners of a single licensed entity, as addressed in §89.306 of this title (relating to Required Notifications) [~~proportionate ownership as defined in §89.304 of this title (relating to Change in Form or Proportionate Ownership)~~]. Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license; and

[~~(B) any purchase or acquisition of control of a licensed general partnership, in which a partner relinquishes that owner's entire interest or a new general partner obtains an ownership interest;~~]

[~~(C) any change in ownership of a licensed limited partnership interest in which:~~]

[~~(i)~~] ~~a limited partner owning 10% or more relinquishes that owner's entire interest;~~]

[~~(ii)~~] ~~a new limited partner obtains an ownership interest of 10% or more;~~]

[~~(iii)~~] ~~a general partner relinquishes that owner's entire interest; or~~]

[~~(iv)~~] ~~a new general partner obtains an ownership interest (transfer of ownership occurs regardless of the percentage of ownership exchanged of the general partner);~~]

[~~(D) any change in ownership of a licensed corporation in which:~~]

[~~(i)~~] ~~a new stockholder obtains 10% or more of the outstanding voting stock in a privately held corporation;~~]

[~~(ii)~~] ~~an existing stockholder owning 10% or more relinquishes that owner's entire interest in a privately held corporation;~~]

[~~(iii)~~] ~~any purchase or acquisition of control of 51% or more of a company that is the parent or controlling stockholder of a licensed privately held corporation occurs; or~~]

[~~(iv)~~] ~~any stock ownership changes that result in a change of control (i.e., 51% or more) for a licensed publicly held corporation occur;~~]

[~~(E) any change in the membership interest of a licensed limited liability company:~~]

[~~(i)~~] ~~in which a new member obtains an ownership interest of 10% or more;~~]

[~~(ii)~~] ~~in which an existing member owning 10% or more relinquishes that member's entire interest; or~~]

[~~(iii)~~] ~~in which a purchase or acquisition of control of 51% or more of any company that is the parent or controlling member of a licensed limited liability company occurs;~~]

(B) [~~(F)~~] any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location. [~~; and~~]

[~~(G) any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.~~]

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No property tax lender license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §351.163. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete [~~approved~~] when the OCCC has approved the transferee's new license application and the transferor's license surrender [~~issues its final written approval of a license transfer application~~].

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete [~~license transfer application or~~] new license application on transfer of ownership in accordance with subsection (e). A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for [~~a license transfer application or~~] a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a property tax lender license at the time of the application, then the application must include the information required for new license applications under §89.302 of this title (relating to Filing of New Application). The instructions in §89.302 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a property tax lender license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, key individuals [~~owners and principal parties~~], and a new financial statement, as provided in §89.302 of this title. The instructions in §89.302 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §89.302 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e).

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e), by the deadline described by subsection (d), then the transferee may engage in business as a property tax lender. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §89.307(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing property tax lending activity under a license, the transferor is responsible to any consumer and to the OCCC for all property tax lending activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing property tax lending activity under a license before the OCCC's final approval of an application described by subsection (e), then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After the OCCC's final approval of an application described by subsection (e) of this section, the transferee is responsible to any consumer and to the OCCC for all property tax lending activity performed under the license. The transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

§89.306. Required Notifications [~~Updating Application and Contact Information~~].

(a) Advance change notice. No later than the date of the change (or an earlier date specified in the OCCC's written instructions), a licensee must notify the OCCC of a change to any of the following information provided in the original license application: [~~Applicant's updates to license application information. Before a license application is approved, an applicant must report to the OCCC any information that would require a materially different answer than~~

that given in the original license application and that relates to the qualifications for license within 14 calendar days after the person has knowledge of the information.]

(1) legal name of entity;

(2) any assumed names of entity;

(3) legal status of entity (e.g., change in organizational form from partnership to corporation); or

(4) names of direct owners or indirect owners;

(5) names of affiliates or subsidiaries;

(6) names of any key individuals;

(7) main address; or

(8) address of any branch location.

(b) Other required notifications. No later than 30 days after the licensee has knowledge of the information, a licensee must report the following information to the OCCC: [Licensee's updates to license application information. A licensee must report to the OCCC any information that would require a different answer than that given in the original license application within 30 calendar days after the licensee has knowledge of the information, if the information relates to any of the following:]

(1) any civil or regulatory actions against the licensee or key individuals that were not disclosed in the original application and would require a different answer than that given in the original license application [the names of principal parties];

(2) criminal history of the licensee or key individuals that was not disclosed in the original application;

(3) any bankruptcy of the licensee or a direct owner [actions by regulatory agencies]; or

(4) any breach of system security under Texas Business & Commerce Code, §521.053, affecting at least 250 residents of this state [court judgments].

(c) Contact information. Each applicant or licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct, including all mailing addresses, all phone numbers, and all email [e-mail] addresses. The OCCC may send notices to the mailing address or email address on file. It is a best practice for licensees to regularly review contact information on file with the OCCC to ensure that it is current and correct.

§89.307. Processing of Application.

(a) Initial review. A response to an incomplete application will ordinarily be made within 14 calendar days of receipt stating that the application is incomplete and specifying the information required for acceptance.

(b) Complete application. An application is complete when:

(1) it conforms to the rules and published instructions;

(2) all fees have been paid; and

(3) all requests for additional information have been satisfied.

(c) Failure to complete application and deemed withdrawal. If a complete application has not been filed within 30 calendar days after notice of deficiency has been sent to the applicant, the application may be considered withdrawn [denied].

(d) Notice of intent to deny application. If an applicant files a complete license application but the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) [(d)] Hearing. An [Whenever an application is denied, the] affected applicant has 30 calendar days from the date of the notice of intent to deny the license application [the application was denied] to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

[(e) Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee and the fingerprint processing fee in §89.310 of this title (relating to Fees) will be forfeited.]

(f) Processing time.

(1) A license application will ordinarily be approved or denied within [a maximum of] 60 calendar days after the date of filing of a completed application.

(2) When a hearing is requested following an initial license application denial, the hearing will ordinarily be scheduled for a date [held] within 60 calendar days after a request for a hearing is made, unless the parties agree to an extension of time. A final decision approving or denying the license application will be made after receipt of the proposal for decision from the administrative law judge.

(3) Exceptions. More time may be taken where good cause exists, as defined by Texas Government Code, §2005.004, for exceeding the established time periods in paragraphs (1) and (2) of this subsection.

§89.308. Notice to Debtors of Relocation of Licensed Offices.

[(a) Notice to commissioner. A licensee may move the licensed office from the licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 30 calendar days prior to the anticipated moving date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the commissioner. The notice must include the contemplated new address of the licensed office, the approximate date of relocation, a copy of the notice to debtors, and the applicable fee as outlined in §89.310 of this title (relating to Fees).]

[(b)] [Notice to debtors.] Written notice of a relocation of an office must be mailed to all debtors of record at least five calendar days prior to the date of relocation. A licensee may send notice to a debtor by email in lieu of mail if the debtor has provided an email address to the licensee and has consented in writing to be contacted at the email address. Any licensee failing to give the required notice must waive all default charges on payments coming due from the date of relocation to 15 calendar days subsequent to the mailing of notices to debtors. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to debtors can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. The commissioner may approve notification to debtors by signs in lieu of notification by mail, if in the commissioner's opinion, no debtors will be adversely affected.

§89.309. License Inactivation or Voluntary Surrender.

(a) Inactivation of active license. A licensee may cease operating under a license and choose to inactivate the license. A license

may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §89.310 of this title (relating to Fees), or the license will expire as described by §89.403 of this title (relating to License Term, Renewal, and Expiration).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §89.310 of this title.

(c) Voluntary surrender of license. Subject to §89.407(b) of this title (relating to Effect of Revocation, Suspension, or Surrender of License), a licensee may request voluntary [~~voluntarily~~] surrender of a license by providing the information required by the OCCC's written instructions [~~written notice of the cessation of operations, a request to surrender the license, and by submitting the license certificate~~]. A surrender is effective when the OCCC approves the surrender. A voluntary surrender will result in cancellation of the license.

§89.311. Applications and Notices as Public Records.

Once a license application or notice is filed with the OCCC, it becomes a "state record" under Texas Government Code, §441.180(11), and "public information" under Government Code, §552.002. Under Government Code, §§441.190, 441.191 and 552.004, the original applications and notices must be preserved as "state records" and "public information" unless destroyed with the approval of the director and librarian of the State Archives and Library Commission under Government Code, §441.187. [~~Under Government Code, §441.191, the OCCC may not return any original documents associated with a property tax lender license application or notice to the applicant or licensee.~~] An individual may request copies of a state record under the authority of the Texas Public Information Act, Government Code, Chapter 552.

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 October 24, 2025.

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

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7 TAC §89.304, §89.305

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.304. Change in Form or Proportionate Ownership.

§89.305. Amendments to Pending Application.

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

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SUBCHAPTER D. LICENSE

7 TAC §89.402

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.402. License Display.

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

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7 TAC §89.403, §89.405

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to

ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.403. License Term, Renewal, and Expiration.

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

(b) NMLS. To maintain and renew a license, a licensee must maintain an active account in NMLS (or a successor system designated by the OCCC). The OCCC may make renewal unavailable to a licensee that fails to maintain an active account.

(c) [~~(b)~~] Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(d) [~~(c)~~] Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice of delinquency is given when the OCCC sends the notice electronically through NMLS or by email to the primary company contact.[~~:~~]

[~~(1) by mail to the address on file with the OCCC as a master file address; or~~]

[~~(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.~~]

(e) [~~(d)~~] Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

(f) [~~(e)~~] Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a license was in good standing when it expired, a person may reinstate the expired license not later than the 180th day after its expiration date by paying the annual assessment fee and a $1,000 late filing fee.

§89.405. Denial, Suspension, or Revocation Based on Criminal History.

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §89.310 of this title (relating to Fees), the OCCC will investigate the applicant and its key individuals [~~principal parties~~]. The OCCC will obtain criminal history record information through NMLS [~~from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission~~]. The OCCC will continue to receive information on new criminal activity reported after the license application has [~~fingerprints have~~] been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its key individuals [~~principal parties~~];

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) (No change.)

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §351.104(a)(1). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its key individuals [~~principal parties~~]. If the applicant or a key individual [~~principal party~~] has been convicted of an offense described by subsections (c)(1) or (f)(1) of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its key individuals [~~principal parties~~] if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) and (3) of this section in its review of character and fitness.

(e) - (f) (No change.)

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

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Matthew Nance
General Counsel
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SUBCHAPTER H. PAYOFF STATEMENTS

7 TAC §89.806

The rule changes are proposed under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes

are also proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.806. Payoff Request from Borrower

(a) Generally. A borrower has a right to pay off a property tax loan early, consistent with the prohibition on prepayment penalties in Texas Tax Code, § 32.065(d), and Texas Finance Code, §343.205 and §351.0021(a)(9). A property tax lender may not "lock out" a borrower or prevent a borrower from paying off the loan early. The borrower's right to pay off the loan early includes the right to authorize another person to pay off the property tax loan.

(b) Payoff request process. If a property tax lender obtains a borrower's authorization to pay off a property tax loan held by an existing property tax lender, then the parties should take these steps.

(1) The authorized property tax lender should obtain a signed written statement from the borrower authorizing the lender to pay off the property tax loan. If the signature is electronic, then the lender must maintain proof of the signature in accordance with standards for electronic signatures.

(2) The authorized property tax lender should send a request for a payoff statement to the existing property tax lender. The request should include the borrower's statement and proof of any electronic signature. The request should include the borrower's name, the authorized person's name, a description of the property, and reasonable instructions for where to send the payoff statement.

(3) If the request includes the information necessary to complete a payoff statement, then the existing property tax lender should respond with a payoff statement to the authorized property tax lender within seven business days after the existing property tax lender receives the complete request. The payoff statement should include accurate payoff information, and the borrower and the authorized lender should be able to rely on it for a reasonable period of time. The payoff statement should include reasonable instructions for paying off the property tax loan. If the authorized property tax lender's request does not include the information described by paragraph (2) of this subsection, then the existing property tax lender should notify the authorized property tax lender of the deficiency within a reasonable period of time.

(4) The authorized property tax lender may pay off the existing property tax loan as described in the payoff statement.

(5) Once the property tax lender has received the payoff amount, the property tax lender must promptly assign the property tax loan to the authorized person or release the property tax lender's lien on the property.

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

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Matthew Nance
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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER S. WHOLESALE MARKETS

16 TAC §25.520

The Public Utility Commission of Texas (commission) proposes new 16 Texas Administrative Code (TAC) §25.520 relating to Firm Fuel Supply Service (FFSS). This proposed rule will implement Public Utility Regulatory Act (PURA) §39.159, as enacted by Senate Bill (SB) 3 during the Texas 87th Regular Legislative Session. The new rule will establish the criteria for a resource to participate in the Firm Fuel Supply Service (FFSS) program and the requirements for ERCOT to implement the FFSS program.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program;

(2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;

(3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;

(4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;

(5) the proposed rule will create a new regulation to implement requirements under amended PURA §39.159;

(6) the proposed rule will not expand, limit, or repeal an existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule's applicability; and

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

Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of

implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Fiscal Impact on State and Local Government

Ms. Horn, Sr. Counsel, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the sections. A municipally owned utility that is a load serving entity will be charged by ERCOT for the firm fuel supply service based upon the load serving entity's load ratio share during the relevant FFSS obligation period.

Public Benefits

Ms. Horn has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be increased reliability during, or in preparation for, a natural gas curtailment or other fuel supply disruption. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under subsection §2001.0045(c)(7).

Public Hearing

Commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 14, 2025. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Comments must be filed by November 21, 2025. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rule. The commission also requests any data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The commission will consider the costs and benefits in deciding whether to modify the proposed rule on adoption. All comments should refer to Project Number 58434.

In addition to general comments on the text of the proposed rule, the commission invites interested persons to address the following specific questions:

(1) If the offers submitted by resources under proposed subsections (c)(1) and (c)(2) are insufficient for ERCOT to allocate 70% of the budget to those resources, as required by proposed subsection (d)(2), how should the awards be allocated?

(2) What process should be used to establish the heat rate and offer cap described in proposed subsection (e)?

Each set of comments should include a standalone executive summary as the last page of the filing. This executive summary must be clearly labeled with the submitting entity's name and should include a bulleted list covering each substantive recommendation made in the comments.

Statutory Authority

The amendment is proposed under Public Utility Regulatory Act (PURA) §39.151, which grants the commission authority to oversee ERCOT; and §39.159, which requires the commission to ensure that ERCOT procures ancillary or reliability services on a competitive basis to increase reliability during extreme cold weather conditions and during times of low non-dispatchable power produced in the ERCOT region.

Cross Reference to Statute: Public Utility Regulatory Act §39.151 and §39.159.

§25.520. Firm Fuel Supply Service (FFSS).

(a) Purpose. The purpose of this section is to promote reliability through the procurement of FFSS for deployment during the winter season.

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise:

(1) FFSS obligation period--a period that coincides with the winter season for which a resource is obligated to provide FFSS.

(2) FFSS resource--a generation resource that ERCOT procures for FFSS.

(3) Market clearing price--the dollar amount per megawatt (MW) that is awarded for an FFSS resource that ERCOT procures for a winter season.

(4) Offer cap--the maximum dollar amount per MW that a qualified scheduling entity (QSE) representing a resource may offer into the FFSS program.

(5) Winter season--November 15 through March 15.

(c) Resource requirements for FFSS eligibility. A resource that meets the following requirements is eligible and may be selected by ERCOT in the procurement process to provide FFSS:

(1) successfully demonstrates dual fuel capability, the ability to establish and burn an alternative onsite stored fuel, and has onsite fuel storage capability;

(2) has an onsite natural gas or fuel oil storage capability or off-site natural gas storage where the resource or QSE owns and controls the natural gas storage and pipeline to deliver the required amount of reserve natural gas to the resource from the storage facility; or

(3) has a transportation contract with a natural gas pipeline that is a critical natural gas facility, as defined in §25.52 of this title (relating to Reliability and Continuity of Service), and:

(A) is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. §17 et seq);

(B) is an intrastate natural gas pipeline that is not operated by a gas utility, as defined in Title 3 of the Texas Utilities Code; or

(C) is an intrastate pipeline that is owned or operated by a gas utility, as defined in Title 3 of the Texas Utilities Code, that:

(i) provides only transmission service in accordance with its gas utility tariff;

(ii) certifies that if the gas utility reduces firm deliveries to customers pursuant to §7.455 of this title (relating to Curtailment Standards), the intrastate pipeline will have sufficient operational capacity, including sufficient pipeline pressure, to provide the volume of gas required for the transportation path between the storage facility and FFSS resource to provide continuous service in the event of a curtailment; and

(iii) certifies that the pipeline has not curtailed deliveries of gas, under §7.455 of this title or an order issued by the Railroad Commission of Texas, to a resource that was subject to a firm transportation agreement during a curtailment event that occurred after January 1, 2021.

(d) FFSS procurement. ERCOT must procure FFSS ahead of each winter season to help maintain reliability during, or in preparation for, a natural gas curtailment or other fuel supply disruption.

(1) ERCOT may spend a maximum of $54 million in standby payments to procure FFSS during a single winter season. ERCOT may reject an offer that a QSE submits on behalf of a resource if ERCOT determines that:

(A) the offer is unreasonable;

(B) the offer is an outlier when evaluating the parameters of an acceptable offer;

(C) ERCOT lacks a sufficient basis to verify whether the resource complied with ERCOT established performance standards in an event in which the resource was deployed by ERCOT during the preceding FFSS obligation period;

(D) the QSE representing the resource fails to reserve sufficient fuel for the first deployment for the FFSS obligation period; or

(E) the QSE representing the resource fails to reserve sufficient emissions allowances or credits to meet at least three deployments for the FFSS obligation period.

(2) ERCOT must ensure that at least 70% of the $54 million budget for procurement costs is allocated to resources that are eligible to provide FFSS under subsection (c)(1) or (2) of this section, unless insufficient offers were submitted for resources under those subsections.

(e) Offer cap. The offer cap must be calculated as a function of maximum hours per deployment (hours), heat rate (MMBtu/MWh), and fuel price ($/MMBtu), using the following equation: Offer cap ($/MW) = hours * heat rate * fuel price.

(1) The fuel price for resources eligible to provide FFSS under subsection (c)(1) and (2) of this section must be based on the projected price of fuel oil for the upcoming winter season.

(2) The fuel price for resources eligible to provide FFSS under subsection (c)(3) of this section must be based on the projected price of natural gas for the upcoming winter season.

(3) ERCOT must establish a single heat rate for each category of resources that are eligible to provide FFSS under subsection (c) of this section. The heat rate for each category must account for the specific characteristics of the resource types that are eligible to provide FFSS under requirements for that category.

(f) FFSS program requirements. In addition to program requirements established by ERCOT, the following requirements apply to the FFSS program.

(1) An FFSS resource must be represented by a QSE.

(2) ERCOT must establish qualifications for a QSE to represent an FFSS resource.

(3) ERCOT must establish performance criteria for an FFSS resource and a QSE representing an FFSS resource.

(4) An FFSS resource's offer must be submitted to ERCOT through a QSE representing the FFSS resource.

(5) ERCOT may deploy FFSS as necessary throughout the FFSS obligation period.

(6) When deployed by ERCOT, an FFSS resource must deploy consistent with its obligations and must remain deployed until the earlier of:

(A) exhaustion of the fuel reserved to generate at the MW level and for the specified duration associated with the FFSS award, including any fuel that was restocked following approval or instruction by ERCOT;

(B) the fuel supply disruption no longer exists; or

(C) ERCOT determines the FFSS deployment is no longer needed.

(7) ERCOT may limit the restocking of fuel to manage the overall cost of the service or for reliability needs.

(8) ERCOT must establish procedures for testing an FFSS resource.

(g) FFSS payment and charges.

(1) ERCOT must make a payment to each QSE representing an FFSS resource based on a market clearing price mechanism, subject to modifications determined by ERCOT based on the FFSS resource's availability during an FFSS obligation period and the FFSS resource's performance in a deployment event.

(2) ERCOT must charge each load serving entity (LSE) for FFSS procurement costs based upon the LSE's load ratio share during the relevant FFSS obligation period.

(3) Non-procurement costs may be charged to an LSE based on the LSE's load ratio share during the FFSS resource's deployment.

(h) Compliance.

(1) ERCOT must establish criteria to reduce a QSE's payment, claw back a QSE's payment, suspend a QSE from participation in FFSS, or any combination thereof, based on the QSE's failure to meet its FFSS obligation under this section or a related ERCOT protocol. ERCOT must also establish criteria for subsequent reinstatement.

(2) ERCOT must establish criteria to suspend an FFSS resource based on noncompliance with this section or a related ERCOT protocol. ERCOT must also establish criteria for subsequent reinstatement.

(3) ERCOT must notify the commission of all alleged instances of noncompliance with this section or a related ERCOT protocol.

(4) ERCOT must maintain records relating to any alleged noncompliance with this section or a related ERCOT protocol.

(i) Reporting. Prior to the start of each winter season, ERCOT must publicly report the number and type of FFSS resources providing the service, the market clearing prices, the amount of reserved fuel associated with each FFSS award, the highest and lowest offers, the number of MW associated with each FFSS award, and the projected total cost in standby payments to procure FFSS for that obligation period.

(j) Implementation. ERCOT must develop, in consultation with commission staff, additional procedures, guides, technical requirements, protocols, or other standards that are consistent with this section and that ERCOT finds necessary to implement FFSS, including development of a standard FFSS agreement and specific performance guidelines.

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

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Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION
SUBCHAPTER P. LOWER-DIVISION ACADEMIC COURSE GUIDE MANUAL ADVISORY COMMITTEE

19 TAC §1.197

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter P, §1.197 concerning Tasks Assigned to the Committee. Specifically, this amendment will clarify in rule that the committee provides recommendations to the commissioner regarding the addition, deletion, and revision of courses in the Lower-Division Academic Course Guide Manual.

Texas Government Code, Chapter 2110, §2110.0012 authorizes state agencies to establish committees to advise the agency.

Rule 1.197, Tasks Assigned to the Committee, clarifies that the committee provides recommendations to the Commissioner regarding changes to the Lower-Division Academic Course Guide Manual.

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

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

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the clarification of the role of the Lower-Division Academic Course Guide Manual Committee in the addition, deletion and revision of lower-division courses to the Academic Course Guide Manual. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Government Code, Section 2110.0012, and Texas Education Code, Section 61.026, which provides the Coordinating Board with the authority to establish committees to advise the agency.

The proposed amendment affects Texas Education Code, Chapter 61, Subchapter S.

§1.197. Tasks Assigned to the Committee.

Tasks assigned the committee include providing recommendations to the Commissioner regarding:

(1) the addition of courses to the lower-division academic course guide manual;

(2) the deletion of courses from the lower-division academic course guide manual;

(3) the revision of courses in the lower-division academic course guide manual; and

(4) other activities necessary for the maintenance of the lower-division academic course guide manual.

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 October 21, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6182

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CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

SUBCHAPTER C. PRELIMINARY PLANNING PROCESS FOR NEW DEGREE PROGRAMS

19 TAC §2.41

The Texas Higher Education Coordinating Board proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter C, §2.41, concerning Planning Notification: Notice of Intent to Plan. Specifically, this amendment will require that institutions include the proposed location of the degree program in a planning notification for a new degree program.

The amendment is proposed under Texas Education Code, §61.0512(b), which requires institutions to notify the Board prior to beginning preliminary planning for a new degree program. Texas Education Code, §61.0512(g) states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 2.41, Planning Notification: Notice of Intent to Plan, is amended to require that institutions include the proposed location of the degree program in a planning notification for a new degree program. This clarification provides additional information to inform review of off-campus educational sites and is incorporated as part of the rule review and revisions to off-campus approval in new Chapter 2P. Review of the location may inform the labor market information and potential for duplication of programs in a specific region.

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

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

David Troutman, Deputy Commissioner for Academic Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be additional transparency of the anticipated location of new degree programs at public institutions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to David Troutman, Deputy Commissioner for Academic Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.0512(b), which requires institutions to notify the Board prior to beginning preliminary planning for a new degree program and Texas Education Code, Section 61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The proposed amendment affects Texas Education Code, Sections 61.0512(b), and 61.0512(g).

§2.41. Planning Notification: Notice of Intent to Plan.

(a) Prior to the institution seeking approval for a new degree program from its governing board, each institution's Chief Academic Officer, or delegate, shall provide notification to Board Staff of the institution's intent to engage in planning for a new degree program. The Planning Notification shall contain the following information:

(1) The proposed title of the degree;

(2) The proposed degree designation;

(3) The proposed CIP Code; [~~and~~]

(4) The location where the proposed program would be offered, and if available, whether the location is an off-campus educational site; and

(5) [~~(4)~~] Anticipated date of submission.

(b) Not later than sixty days after Board Staff receives the Planning Notification, Board Staff shall provide the institution a report including available labor market information and other relevant data to inform the institution's planning for the proposed program.

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6520

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SUBCHAPTER F. APPROVAL PROCESS FOR NEW BACCALAUREATE AND MASTER'S DEGREES AT PUBLIC UNIVERSITIES AND PUBLIC HEALTH-RELATED INSTITUTIONS

19 TAC §§2.118 - 2.121

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F, §§2.118 - 2.121, concerning the Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions. Specifically, these rules are being replaced with new rules in Subchapter F that include the addition of §2.118 which will establish approval criteria for competency-based baccalaureate degree programs required by House Bill (HB) 4848, 89th Texas Legislature, Regular Session.

The repeal is proposed under Texas Education Code, §51.3535, which requires the Coordinating Board to adopt new rules on implementation of HB 4848, 89th Texas Legislature, Regular Session.

Section 2.118, Post-Approval Program Reviews, outlines requirements for review of degree programs after initial approval by the Coordinating Board.

Section 2.119, Revisions to Approved Baccalaureate or Master's Degree Programs, outlines how an institution may request changes to an approved bachelor's or master's degree program.

Section 2.120, Phasing Out a Master's or Baccalaureate Degree Program, outlines steps to request closure or phase out of a bachelor's or master's degree program.

Section 2.121, Effective Dates of Rules, provides the effective date for this section of rule.

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

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

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the implementation of statutory obligations related to the approval of competency-based baccalaureate degree programs at public institutions of higher education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F.

§2.118. Post-Approval Program Reviews.

§2.119. Revisions to Approved Baccalaureate or Master's Degree Programs.

§2.120. Phasing Out a Master's or Baccalaureate Degree Program.

§2.121. Effective Date of Rules.

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 October 21, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: December 7, 2025
For further information, please call: (512) 427-6182

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19 TAC §§2.118 - 2.121

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F, §§2.118 - 2.121, concerning Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions. Specifically, this new section will implement statutory obligations related to the approval of competency-based baccalaureate degree programs at public institutions of higher education.

The new section is proposed under Texas Education Code, §51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

Section 2.118, Criteria for New Competency-Based Baccalaureate Degrees, will establish approval criteria for competency-based baccalaureate degree programs required by House Bill 4848, 89th Texas Legislature, Regular Session. The new legislation requires that one or more institutions of higher education in each system offer a competency-based baccalaureate degree program in a high demand field identified by the Coordinating Board. Programs in high demand fields, identified based on existing labor market demand data and feasibility for transition to competency-based education, include programs in Classification of Instructional Programs (CIP) 11 - Computer and Information Sciences and Support Services, CIP 51 - Health Professions and Related Programs, CIP 27- Mathematics and Statistics, CIP 30.70 - Data Analytics, or CIP 30.08 - Mathematics and Computer Science. Baccalaureate degrees in CIPs other than those referenced above may be approved by the Commissioner based on demonstrated high labor market demand for the program. Institutions requesting a new baccalaureate degree under this section shall submit a planning notification as required by Subchapter C of this chapter and are subject to approval criteria in Chapter 2, §2.117. The tuition limitation established in new Texas Education Code, §51.3535 (c) and (d), will be adopted in Chapter 13, Subchapter G.

Section 2.119, Post-Approval Program Reviews, outlines requirements for review of degree programs after initial approval by the Coordinating Board. No changes have been made to this section.

Section 2.120, Revisions to Approved Baccalaureate or Master's Degree Programs, outlines how institution's may request changes to an approved bachelor's or master's degree program. No changes have been made to this section.

Section 2.121, Phasing Out a Master's or Baccalaureate Degree Program, outlines steps to request closure or phase out of a bachelor's or master's degree program. No changes have been made to this section.

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

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

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the implementation of statutory obligations related to the approval of competency-based baccalaureate degree programs at public institutions of higher education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

(5) the rules will create a new rule;

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 51.3535, which provides the Coordinating Board with the authority to adopt rules on implementation of House Bill 4848, 89th Texas Legislature, Regular Session.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter F.

§2.118. Criteria for New Competency-Based Baccalaureate Degrees.

(a) Each system shall ensure that one or more institutions of higher education under its control offer a competency-based baccalaureate degree program in accordance with this rule.

(b) At least one institution of higher education in each system shall offer a competency-based baccalaureate degree program in one of the following high-demand fields:

(1) CIP 11 - Computer and Information Sciences and Support Services (e.g., computer science, data science, information security/cyber security);

(2) CIP 51 - Health Professions and Related Programs (e.g., nursing, health services, health administration;

(3) CIP 27 - Mathematics and Statistics;

(4) CIP 30.70 Data Science, CIP 30.71 Data Analytics, or CIP 30.08 Mathematics and Computer Science, or;

(5) Any other degree program approved by the Commissioner based on available data demonstrating the program leads to employment in a high-demand field.

(c) A competency-based baccalaureate degree program offered under this section is subject to the planning notification required by §2.113 of this subchapter (relating to Submission of Planning Notification), approval required under §2.114 of this subchapter (relating to Approval Required), and 2.4 of this chapter (relating to Approval Required).

(d) A competency-based baccalaureate degree program offered under this section is subject to the criteria for approval under §2.117 of this subchapter (relating to Criteria for New Baccalaureate and Master's Degrees).

(e) An institution may not charge more than the total tuition provided in chapter 13, subchapter G of this title (relating to Tuition and Fees) for a degree program offered under this section.

(f) This rule applies to each system beginning with the 2026 - 2027 academic year. A system that does not currently offer a competency-based degree in a high-demand field as set out in this section shall submit a planning notification for approval of a program not later than July 1, 2026.

§2.119. Post-Approval Program Reviews.

Board Staff shall conduct post-approval reviews in accordance with subchapter I of this chapter (relating to Review of Existing Degree Programs).

§2.120. Revisions to Approved Baccalaureate or Master's Degree Programs.

An institution may request a non-substantive or substantive revision or modification to an approved baccalaureate or master's program under §2.7 of this chapter relating to Informal Notice and Comment on Proposed Local Programs).

§2.121. Phasing Out a Master's or Baccalaureate Degree Program.

An institution may request to phase out a master's or baccalaureate program under subchapter H of this chapter (relating to Phasing Out Degree and Certificate Programs).

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 October 21, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6182

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SUBCHAPTER P. APPROVAL PROCESS AND CRITERIA FOR OFF-CAMPUS EDUCATION AT PUBLIC UNIVERSITIES AND HEALTH-RELATED INSTITUTIONS

19 TAC §§2.380 - 2.388

The Texas Higher Education Coordinating Board proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter P, §§2.380 - 2.388, concerning the Approval Process and Criteria for Off-Campus Education at Public Universities and Health-Related Institutions. The new rules replace existing rules in Chapter 4, subchapter Q, relating to the delivery of off-campus courses, certificates, and programs, which will be repealed under separate rulemaking and an agency-issued policy document from 2014. The new rules are designed to streamline processes related to notification and approval of off-campus courses, certificates and programs.

Texas Education Code (TEC), §61.002, charges the Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." TEC, §61.0512(a), requires board approval for a new certificate or degree program. TEC, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

Section 2.380, Purpose and Applicability, establishes that the rules apply to public universities and health-related institutions. Rules relating to off-campus education for community, technical and state colleges will be addressed in future rulemaking.

Section 2.381, Authority, identifies the statutory authority for the Coordinating Board to establish rules related to off-campus education.

Section 2.382, Definitions, provides words and terms relevant to delivery of degree programs as off-campus educational sites.

Section 2.383, Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site, establishes required criteria that institutions must comply with to offer off-campus education. These criteria align with state and federal standards and ensure that each student enrolled in an off-campus degree program has access to the same quality of education as on-campus students.

Section 2.384, Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) of a Degree Program, establishes procedures for institutions to notify the Coordinating Board offer off-campus education that does not meet the fifty percent (50%) of a degree program threshold. The section also identifies which site types are not required as part of the notification. This requirement is new but ensures statutory compliance with as minimal data collection as possible.

Section 2.385, Approval Required for Off-Campus Delivery of a New Degree Program, establishes approval procedures for institutions seeking approval for a new degree program that will be offered at an off-campus location. This section does not represent a departure from current practice for universities and health-related institutions.

Section 2.386, Approval Required for Off-Campus Delivery of an Existing Degree Program, establishes procedures for institutions seeking approval for an existing degree program to be offered at an off-campus location. This requirement is not new and removes the institutional requirement to submit a 50-mile notification prior to submission to the Coordinating Board. The Coordinating Board will send out a regional 30-day informal comment period for off-campus requests as it does with new degree programs.

Section 2.387, Modifications and Phase Out of Off-Campus Degree Programs, establishes procedures for making modifications to degree programs offered at an off-campus educational site. This section does not represent a departure from current practice for universities and health-related institutions.

Section 2.388, Effective Dates of Rules, specifies that the rules are effective beginning September 1, 2026.

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

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

David Troutman, Deputy Commissioner for Academic Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a streamlined process for notification and approval of off-campus courses, certificates and degree programs at public universities and health-related institutions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to David Troutman, Deputy Commissioner for Academic Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAComments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code (TEC), §61.002, which charges the Coordinating Board with "the elimination of costly duplication in program offerings, faculties, and physical plants", TEC, §61.0512(a), which requires board approval for a new certificate or degree program, and TEC, §61.0512(g), which states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

The proposed new section affects Texas Education Code, §61.002, §61.0512(a) and §61.0512(g).

§2.380. Purpose and Applicability.

This subchapter establishes rules for an institution of higher education, other than a community, technical, or state college, to obtain approval to offer a course, certificate program, or degree programs at an off-campus educational site.

§2.381. Authority.

Texas Education Code, §61.002, charges the Board with "the elimination of costly duplication in program offerings, faculties, and physical plants." Texas Education Code, §61.0512(a), requires Board approval for a new certificate or degree program. Texas Education Code, §61.0512(g), states that institutions may offer off-campus credit courses only with prior approval from the Coordinating Board.

§2.382. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Additional Location:

(A) A location approved by the institution's Board-recognized accreditor in accordance with 34 C.F.R. §600.32; or

(B) A branch campus or other campus other than a main campus authorized or recognized by legislative approval.

(2) Off-Campus Degree Program--A degree program in which fifty percent (50%) or more of required instruction or coursework is in-person at an off-campus educational site.

(3) Off-Campus Educational Site--For a public university or health-related institution, a location away from the main campus where an institution delivers the required instruction for a credit course, certificate, or degree program in person.

§2.383. Standards and Criteria for Delivery of Courses and Programs at an Off-Campus Educational Site.

Each institution of higher education providing off-campus education shall:

(1) Comply with the standards, criteria, and approval requirements of one of the Board-recognized regional accrediting organizations as defined in §4.192 of this title (relating to Recognized Accrediting Organizations);

(2) Operate an additional location only as authorized by the legislature and in accordance with the institution's accreditation standards;

(3) Ensure each off-campus educational site is of sufficient quality for the programs and courses offered;

(4) Provide each student with equivalent academic support services as a student enrolled in an on-campus course or program;

(5) Ensure students in off-campus courses and programs satisfy equivalent institutional enrollment requirements as on-campus students; and

(6) Select and evaluate faculty teaching at an off-campus educational site by equivalent standards, review, and approval procedures used by the institution to select and evaluate faculty responsible for on-campus courses and programs.

§2.384. Notification Required for Off-Campus Delivery of Courses, Certificates, and Less than Fifty Percent (50%) of a Degree Program.

(a) Not less than once a year in a manner prescribed by the Board, an institution of higher education shall notify the Coordinating Board of an off-campus educational site at which a course, certificate, or less than fifty percent (50%) of a new degree program is offered.

(b) Internship, clinical, dual credit and study abroad sites are exempt from the requirements of this section.

§2.385. Approval Required for Off-Campus Delivery of a New Degree Program.

(a) An institution of higher education shall obtain Coordinating Board approval prior to delivery of a new degree program with fifty

percent (50%) or more new content at an off-campus educational site. A request for a new degree program offered at an off-campus educational site is subject to the designated approval required for the degree level as set out in subchapters D, E, F, and G of this chapter (relating to Approval Process for New Academic Associate Degrees, Approval Process for New Baccalaureate Programs at Public Junior Colleges, Approval Process for New Baccalaureate and Master's Degrees at Public Universities and Public Health-Related Institutions, and Approval Process for New Doctoral and Professional Degree Programs respectfully).

(b) For a new degree program offered at an off-campus educational site, the institution shall provide the name and address of the off-campus educational site where the proposed program would be delivered in its request for a new degree program submitted to the Coordinating Board for approval.

(c) The Coordinating Board will review the request for a new degree program in accordance with §2.7 of this chapter (relating to Informal Notice and Comment on Proposed Local Programs), and applicable rules for approval of the proposed program to be offered at an off-campus educational site.

§2.386. Approval Required for Off-Campus Delivery of an Existing Degree Program.

(a) An institution of higher education shall request to offer fifty percent (50%) or more of an existing degree program at a new educational site under the procedures and approvals pursuant to §2.9 of this chapter (relating to Revisions and Modifications to an Approved Program).

(b) The Coordinating Board will provide an opportunity for informal comment on the proposed off-campus delivery of the program in accordance with §2.7 of this chapter (relating to Informal Notice and Comment on Proposed Local Programs).

§2.387. Modifications and Phase Out of Off-Campus Degree Programs.

An institution may request a revision, modification or phase out of an approved degree program offered at an off-campus educational site pursuant to §2.9 of this chapter (relating to Revisions and Modifications to an Approved Program).

§2.388. Effective Date of Rules.

The effective date of this subchapter is September 1, 2026.

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 October 21, 2025.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6520

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

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

19 TAC §§4.22, 4.25, 4.28 - 4.31

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B §§4.22, 4.25, 4.28 - 4.31, concerning Transfer of Credit, Core Curriculum and Field of Study Curricula. Specifically, this amendment will implement statutory obligations related to the approval of the Texas Core Curriculum.

The amendments are proposed under Texas Education Code, §51.315, which provides the Coordinating Board with the authority to adopt rules on implementation of Senate Bill 37, 89th Texas Legislature, Regular Session.

Section 4.22, Authority, provides the Board with authority to adopt rules related to the Core Curriculum, Field of Study Curricula, and a transfer dispute resolution process. Amendments include adding reference to Texas Education Code, §51.315, §61.052, and §61.832 and removing §61.059, §61.0512, and §61.0593.

Section 4.25, Requirements and Limitations, outlines how institutions transfer lower-division course credit and directs institutions to provide appropriate services to transfer students. Amendments add a requirement that each institution of higher education include on the institution's website the minimum requirements to be accepted as a transfer student to the institution. This amendment will implement Texas Education Code, §61.07771(b)(2), as enacted by Senate Bill 3039, 89th Texas Legislature, Regular Session.

Section 4.28, Core Curriculum, adds new subsection (4) setting out the requirements of the Board recommended core curriculum and requiring each institution's governing board to ensure compliance with Texas Education Code, §51.315, as enacted by Senate Bill 37, 89th Texas Legislature, Regular Session. This section also details the specific requirements of the core curriculum including a statement of purpose, the core objectives, and foundational component areas. The proposed amendment repeals the section referring to the fall 2014 implementation of the Texas Core Curriculum.

Section 4.29, Core Curricula Larger than 42 Semester Credit Hours, title is amended to Core Curricula Other than 42 Semester Credit Hours to align with Texas Education Code, §61.822.

Section 4.30, Institutional Assessment and Reporting, title is amended to Core Curriculum Review. This section outlines the responsibilities of institutional governing boards to complete the review of general education courses as required by Texas Education Code, §51.315, enacted by Senate Bill 37, 89th Texas Legislature, Regular Session. The section requires that each governing board complete the initial review in 2026 and provide initial certification to the Coordinating Board no later than January 1, 2027.

Section 4.31, Implementation and Revision of Core Curricula, title is amended to Revision of Core Curricula. This section requires each institution to annually submit revisions of its general education curriculum to its governing board as required by new Texas Education Code, §51.315(d).

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

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

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

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at AHAcomments@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 51.315, which provides the Coordinating Board with the authority to adopt rules on implementation of Senate Bill 37, 89th Texas Legislature, Regular Session.

The proposed amendments affect Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B; Texas Education Code, Chapter 61, Subchapter S; and Texas Education Code §61.052, and §61.0522.

§4.22. Authority.

The Board is authorized to adopt rules related to the [~~and establish policies and procedures for the development, adoption, implementation, funding, and evaluation of~~] Core Curricula, Field of Study Curriculum [~~Curricula~~], and a transfer dispute resolution process under Texas Education Code, §§51.315, 61.052, [~~§§61.059, 61.0512, 61.0593,~~] 61.821 - 61.828, 61.832, and 61.834.

§4.25. Requirements and Limitations.

(a) Each institution of higher education shall identify in its undergraduate catalog each lower-division course that is substantially equivalent to an academic course listed in the current edition of the Lower Division Academic Course Guide Manual.

(b) Each institution of higher education that offers lower-division courses must offer at least 45 semester credit hours of academic courses that are substantially equivalent to courses listed in the Lower Division Academic Course Guide Manual including those that fulfill the lower-division portion of the institution's core curriculum.

(c) All institutions of higher education must accept transfer of credit for successfully completed courses identified in subsections (a) and (b) of this section as applicable to an associate or baccalaureate degree in the same manner as credit awarded to non-transfer students in that degree program.

(d) Each institution must accept the same number of lower-division semester credit hours from transfer students as required for non-transfer students in the same baccalaureate program; however,

(1) An institution is not required to accept in transfer more semester credit hours in the major area of a degree program than the number set out in any applicable Board-approved Field of Study Curriculum for that program.

(2) In any degree program for which there is no Board-approved Field of Study Curriculum, an institution is not required to accept in transfer more lower-division course credit in the major applicable to a baccalaureate degree than the institution allows their non-transfer students in that major.

(3) An institution of higher education is not required to transfer credit in courses in which the student earned a "D" in the student's Field of Study Curriculum courses, Core Curriculum courses, or major.

(e) Each institution of higher education that admits undergraduate transfer students shall provide support services appropriate to meet the needs of transfer students. These support services should be comparable to those provided to non-transfer students regularly enrolled at the institution, including an orientation program similar to that provided for entering freshman enrollees.

(f) An institution of higher education is not required to accept in transfer, or apply toward a degree program, more than sixty-six (66) semester credit hours of lower-division academic credit. Institutions of higher education, however, may choose to accept additional semester credit hours.

(g) Each institution of higher education shall permit a student who transfers from another Texas public institution of higher education to choose a catalog for the purpose of specifying graduation requirements, based upon the dates of attendance at the receiving institution and at the transferring institution, in the same manner that a non-transfer student may choose a catalog. Each Texas public institution of higher education shall include information about graduation requirements under a particular catalog in its official publications, including print and electronic catalogs.

(h) Each institution of higher education shall post on the institution's website the minimum requirements to be accepted as a transfer student at the institution.

§4.28. Core Curriculum.

(a) General.

(1) In accordance with Texas Education Code, §§61.821 - 61.832, each institution of higher education that offers an undergraduate academic degree program, under the direction of the institution's

governing board, shall design and implement a core curriculum, including specific courses composing the curriculum, of no less than 42 lower-division semester credit hours.

(2) No upper-division course shall be approved to fulfill a foundational component area requirement in the core curriculum if it is substantially comparable in content or depth of study to a lower-division course listed in the Lower-Division Academic Course Guide Manual.

(3) Medical or dental units that admit undergraduate transfer students should encourage those students to complete their core curriculum requirement at a general academic teaching institution or public junior college.

(4) Each institution's governing board shall ensure all courses in the core curriculum of each institution of higher education:

(A) are foundational and fundamental to a sound post-secondary education;

(B) are necessary to prepare students for civic and professional life;

(C) equip students for participation in the workforce and in the betterment of society; and

(D) ensure a breadth of knowledge in compliance with applicable accreditation standards.

(b) Texas Core Curriculum. Each institution of higher education that offers an undergraduate academic degree program shall develop its core curriculum by using the Board-approved purpose, core objectives, and foundational component areas of the Texas Core Curriculum.

(1) Statement of Purpose. Through the Texas Core Curriculum, students will gain a foundation of knowledge of human cultures and the physical and natural world, develop principles of personal and social responsibility for living in a diverse world, and advance intellectual and practical skills that are essential for all learning.

(2) Core Objectives. Through the Texas Core Curriculum, students will prepare for contemporary challenges by developing and demonstrating the following core objectives:

(A) Critical Thinking Skills: to include creative thinking, innovation, inquiry, and analysis, evaluation and synthesis of information;

(B) Communication Skills: to include effective development, interpretation and expression of ideas through written, oral and visual communication;

(C) Empirical and Quantitative Skills: to include the manipulation and analysis of numerical data or observable facts resulting in informed conclusions;

(D) Teamwork: to include the ability to consider different points of view and to work effectively with others to support a shared purpose or goal;

(E) Personal Responsibility: to include the ability to connect choices, actions and consequences to ethical decision-making; and

(F) Social Responsibility: to include intercultural competence, knowledge of civic responsibility, and the ability to engage effectively in regional, national, and global communities.

(3) Foundational Component Areas with Content Descriptions, Core Objectives and Semester Credit Hour (SCH) Requirements. Each institution's core curriculum will be composed of courses that adhere to the content description, core objectives, and semester credit hour requirements for a specific component area. The foundational component areas are:

(A) Communication (6 SCH).

(i) Courses in this category focus on developing ideas and expressing them clearly, considering the effect of the message, fostering understanding, and building the skills needed to communicate persuasively.

(ii) Courses involve the command of oral, aural, written, and visual literacy skills that enable people to exchange messages appropriate to the subject, occasion, and audience.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Teamwork, and Personal Responsibility.

(B) Mathematics (3 SCH).

(i) Courses in this category focus on quantitative literacy in logic, patterns, and relationships.

(ii) Courses involve the understanding of key mathematical concepts and the application of appropriate quantitative tools to everyday experience.

(iii) The following three Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, and Empirical and Quantitative Skills.

(C) Life and Physical Sciences (6 SCH).

(i) Courses in this category focus on describing, explaining, and predicting natural phenomena using the scientific method.

(ii) Courses involve the understanding of interactions among natural phenomena and the implications of scientific principles on the physical world and on human experiences.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Teamwork.

(D) Language, Philosophy, and Culture (3 SCH).

(i) Courses in this category focus on how ideas, values, beliefs, and other aspects of culture express and affect human experience.

(ii) Courses involve the exploration of ideas that foster aesthetic and intellectual creation in order to understand the human condition across cultures.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(E) Creative Arts (3 SCH).

(i) Courses in this category focus on the appreciation and analysis of creative artifacts and works of the human imagination.

(ii) Courses involve the synthesis and interpretation of artistic expression and enable critical, creative, and innovative communication about works of art.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement:

Critical Thinking Skills, Communication Skills, Teamwork, and Social Responsibility.

(F) American History (6 SCH).

(i) Courses in this category focus on the consideration of past events and ideas relative to the United States, with the option of including Texas History for a portion of this component area.

(ii) Courses involve the interaction among individuals, communities, states, the nation, and the world, considering how these interactions have contributed to the development of the United States and its global role.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(G) Government/Political Science (6 SCH).

(i) Courses in this category focus on consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas.

(ii) Courses involve the analysis of governmental institutions, political behavior, civic engagement, and their political and philosophical foundations.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(H) Social and Behavioral Sciences (3 SCH).

(i) Courses in this category focus on the application of empirical and scientific methods that contribute to the understanding of what makes us human.

(ii) Courses involve the exploration of behavior and interactions among individuals, groups, institutions, and events, examining their impact on the individual, society, and culture.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Social Responsibility.

(4) Component Area Option (6 SCH).

(A) Except as provided in subparagraph (B) of this paragraph, each course designated to complete the Component Area Option must meet the definition and Core Objectives specified in one of the foundational component areas outlined in paragraph (3)(A) - (H) of this subsection.

(B) As an option for up to three (3) semester credit hours of the Component Area Option, an institution may certify that the course(s):

(i) Meet(s) the definition specified for one or more of the foundational component areas; and

(ii) Include(s) a minimum of three Core Objectives, including Critical Thinking Skills, Communication Skills, and one of the remaining Core Objectives of the institution's choice.

(C) For the purposes of gaining approval for or reporting a Component Area Option course under subparagraph (B) of this paragraph, an institution is not required to notify the Board of the specific foundational component area(s) and Core Objectives associated with the course(s).

~~[(5) Applicability of Texas Core Curriculum.]~~

~~[(A) Any student who first enrolls in an institution of higher education following high school graduation in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.]~~

~~[(B) Any student who is admitted under the terms of the Academic Fresh Start program and who first enrolls under that admission in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.]~~

~~[(C) Any student who first enrolled in an institution of higher education prior to fall 2014 shall, after consultation with an academic advisor, have the choice to:]~~

~~*[(i)* complete the core curriculum requirements in effect in summer 2014; or]~~

~~*[(ii)* transition to the current core curriculum requirements, in which case, previously completed core curriculum courses shall be applied to the current core curriculum requirements under the same terms as those that apply to a student who transfers from one institution to another. The student shall then complete the remaining requirements under the current core curriculum.]~~

(c) Transfer of Credit--Completed Core Curriculum. If a student successfully completes the 42 semester credit hour core curriculum at a Texas public institution of higher education, that block of courses must be substituted in transfer to any other Texas public institution of higher education for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and may not be required to take additional core curriculum courses at the receiving institution.

(d) Concurrent Enrollment.

(1) A student concurrently enrolled at more than one institution of higher education shall follow the core curriculum requirements in effect for the institution at which the student is classified as a degree-seeking student.

(2) A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution.

(3) If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student's enrollment during the intervening summer session(s) at another institution.

(e) Transfer of Credit--Core Curriculum Not Completed. Except as specified in subsection (f) of this section, a student who transfers from one institution of higher education to another without completing the core curriculum of the sending institution must receive academic credit within the core curriculum of the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy the remaining course requirements in the core curriculum of the receiving institution.

(f) Satisfaction of Foundational Component Areas. Each student must meet the number of semester credit hours in each foundational component area; however, an institution receiving a student in transfer is not required to apply to the fulfillment of a foundational component area requirement semester credit hours beyond the number of semester credit hours specified in a foundational component area.

(g) A course may only apply to a single foundational component area. If the SCH for a course in a foundational component exceed

the number of SCH allotted in that foundational component area, the excess SCH must either be applied to the Component Area Option or as part of the specific degree requirements, such that the additional SCH will not increase the number of required SCH to complete the degree.

(h) Transcripts. All undergraduate student transcripts shall [~~should~~] indicate whether a student has completed the core curriculum satisfactorily, and which courses satisfied a requirement of the institution's core curriculum. Identifying numbers recommended by the Texas Association of Collegiate Registrars and Admissions Officers (TACRAO) must identify each completed core curriculum course on students' transcripts, in order to indicate courses utilized to satisfy core curriculum foundational component area requirements as follows:

(1) Communication = 010;

(2) Mathematics = 020;

(3) Life and Physical Sciences = 030;

(4) Language, Philosophy and Culture = 040;

(5) Creative Arts = 050;

(6) American History = 060;

(7) Government/Political Science = 070;

(8) Social and Behavioral Sciences = 080; and

(9) Component Area Option = 090.

(i) Notice. Each institution shall [~~must~~] publish and make readily available to students its core curriculum requirements stated in terms consistent with the Texas Common Course Numbering System.

(j) Substitutions and Waivers. No institution or institutional representative may approve course substitutions or waivers of the institution's core curriculum requirements for any currently enrolled student, except as provided in subsection (k) of this section. For students who transfer to an [~~a public~~] institution of higher education from a college or university that is not an [~~a Texas public~~] institution of higher education, the institution shall review the courses the student completed prior to admission [~~should be evaluated~~] to determine whether they apply to one of the institution's core curriculum component areas. Only those courses the institution has accepted for transfer that can demonstrate fulfillment of the foundational component area content descriptions, core objectives, and semester credit hours required for the appropriate foundational component area or areas shall [~~should~~] be applied to the institution's core curriculum.

(k) Accommodations.

(1) An institution of higher education may, on a case-by-case basis, approve an accommodation of a specific core curriculum foundational component area requirement as described in paragraph (3) of this subsection for a student with a medically-documented learning disability, including but not limited to dyslexia, dysgraphia, or Asperger's Syndrome.

(2) Accommodation shall not include a waiver or exemption of any core curriculum requirement.

(3) An institution may approve for core curriculum applicability a course the institution offers but that is not approved as a part of the institution's core curriculum, if the institution demonstrates that the course has been approved to fulfill the same specific foundational component area requirement at five or more other institutions of higher education [~~Texas public colleges or universities~~]. The Texas Common Course Numbering System course number may be used as evidence of the suitability of the course under this subsection.

§4.29. Core Curricula Other [~~Larger~~] than 42 Semester Credit Hours.

(a) No institution may adopt a core curriculum of more than 42 semester credit hours.

(b) An institution may, with Board approval, have a core curriculum of fewer than 42 semester credit hours for an associate degree program if it would facilitate the award of a degree or transfer of credit.

§4.30. Core Curriculum Review [~~Institutional Assessment and Reporting~~].

(a) Required Governing Board Core Curriculum Review.

(1) Not less than once every five years, the governing board of each institution of higher education shall conduct a comprehensive review of the general education curriculum established by the institution. In reviewing an institution's general education curriculum, the governing board shall ensure courses in the curriculum align with statutory requirements in Texas Education Code, §51.315 (b)(1) - (4), and §4.28 of this subchapter (relating to Core Curriculum).

(2) In reviewing the general education curriculum of an institution of higher education under (a)(1) of this subsection, the governing board of the institution shall consider the potential costs the curriculum may impose on students, including for additional tuition, fees, and time a student must spend to complete an undergraduate degree program at the institution.

(3) Not later than January 1 following the year in which a governing board conducted a review under this section, the governing board of each institution of higher education shall certify the governing board's compliance with this section to the Board and each standing legislative committee and subcommittee with primary jurisdiction over higher education.

(b) Each governing board shall conduct its initial review in 2026 and make initial certification not later than January 1, 2027.

[~~Each public institution of higher education shall evaluate its core curriculum through the assessment of the core objectives on an ongoing basis, reporting the results of the assessment to the Board every ten years on the schedule that accords with the institution's accreditation reaffirmation self-study report to the Southern Association of Colleges and Schools or its successor. The evaluation and report must include:~~]

[~~(1) a description of the assessment process for each of the six core objectives;~~]

[~~(2) an explanation of measures, methodology, frequency and the timeline of assessment activities;~~]

[~~(3) the criteria and/or targets used to benchmark the attainment of the six core objectives;~~]

[~~(4) the results of the assessment, including evidence of the level of attainment targeted and achieved for each of the six core objectives;~~]

[~~(5) an analysis of the results, including an interpretation of assessment information; and~~]

[~~(6) any actions planned, including how the results and analysis of the assessment process will be used to improve student learning and achievement.~~]

§4.31. Revision [~~Implementation and revision~~] of Core Curricula.

(a) Each institution of higher education shall annually submit any changes to its core curriculum to its governing board. A governing board, on its own or based on the recommendation of a committee appointed under Texas Education Code, §51.315(e), may overturn any change made by the institution to its core curriculum.

(b) An institution of higher education shall annually submit to the Board a list of core curriculum courses, including any changes in the general education curriculum submitted by the institution to its governing board, offered at each institution of higher education under the governing board's control for the purpose of updating the Board's core curriculum inventory.

(1) An institution of higher education shall include in its submission the Texas Common Course Number associated with each core curriculum course, if applicable, as required under §4.28(i) of this subchapter (relating to Core Curriculum).

(2) Upon submission, a governing board shall certify compliance with this subchapter on a form provided by the Coordinating Board.

~~[In offering its Board-approved core curriculum, an institution of higher education must list only those courses that have been approved by the Board as compliant with the Texas Core Curriculum.]~~

~~[(1) Implementation and initial approval of core curricula.]~~

~~[(A) Each public institution of higher education must submit its proposed core curriculum to the Board for staff review and approval by November 30, 2013.]~~

~~[(B) An institution shall follow the procedures posted on the Board's website regarding the implementation and approval of the initial core curricula.]~~

~~[(C) The institution will receive a letter from Board staff giving notice of approval of the initial core curriculum and/or indicating any courses that do not meet provisions of the core curriculum.]~~

~~[(D) Upon receiving an approval letter from Board staff, the institution will document the approved core curriculum in institutional publications.]~~

~~[(2) Revision of Existing Approved Core Curricula.]~~

~~[(A) An institution of higher education may request changes to its core curriculum annually. One comprehensive request may be submitted each academic year, on a schedule that suits the institution's needs.]~~

~~[(B) An institution should follow the procedures posted on the Board's website to modify its core curriculum by adding or deleting courses and must provide information to justify the requested changes.]~~

~~[(C) The institution will receive a letter from Board staff giving notice of approval of the proposed changes and/or indicating any changes that do not meet provisions of the current core curriculum and identifying an effective date for any approved change(s).]~~

~~[(D) Upon receiving an approval letter from Board staff, the institution shall make any required changes to its core curriculum and will document those changes in institutional publications.]~~

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 October 21, 2025.

TRD-202503805

Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: December 7, 2025
For further information, please call: (512) 427-6182

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CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

19 TAC §13.646, §13.649

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter V, §13.646 and §13.649, concerning Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026. Specifically, this amendment will correct an ambiguity and an error, respectively, in the rule text to more accurately convey the policies adopted by the Legislature and the Board.

The amendment is proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Section 13.646, Performance Tier: Fundable Outcomes, is amended to clarify only certain fundable outcomes - fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes - are eligible for additional funding weights based on characteristics of the student achieving the outcome. The other amendment corrects a mischaracterizations of the Opportunity High School Diploma Outcome as a credential, as this mischaracterization may suggest that it is subject to the standards of a credential of value in order to be fundable.

Section 13.649, Performance Tier: Rates, is amended to correct the erroneous omission of a needed informational graphic that should have accompanied the printed rule and will also correct an erroneous rule reference.

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

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

Andy MacLaurin, Assistant Commissioner of Funding, has also determined that for each year of the first five years the section

is in effect, the public benefit anticipated as a result of administering the section will be the accurate and clearly communicated implementation of House Bill 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that better aligns the financial incentives of public junior college with the achievement of successful student outcomes and to support the education and training of the Texas workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

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

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

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

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

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

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

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

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

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to may be submitted to Andy MacLaurin, Assistant Commissioner for Funding, P.O. Box 12788, Austin, Texas 78711-2788, or via email at CCFinance@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendment affects Texas Education Code, Sections Chapter 130A, and Sections 61.059 and 130.0031.

§13.646. Performance Tier: Fundable Outcomes.

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.647(a)(1) - (3), of this subchapter; all other Fundable Outcomes receive a weight of one under §13.647 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

(1) Fundable Credentials;

(2) Credential of Value Premium;

(3) Dual Credit Fundable Outcomes;

(4) Transfer Fundable Outcomes;

(5) Structured Co-Enrollment Fundable Outcomes; and

(6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible for funding is conferred and that the institution reported and certified to the Coordinating Board:

(i) An associate degree;

(ii) A baccalaureate degree;

(iii) A Level 1 or Level 2 Certificate;

(iv) An Advanced Technical Certificate; and

(v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(D) A Third-Party Credential that meets the following requirements:

(i) The third-party credential is listed in the American Council on Education's ACE National Guide with recommended semester credit hours;

(ii) The third-party credential program content is either embedded in a course, embedded in a program, or is a stand-alone program;

(iii) The third-party credential is conferred for successful completion of the third-party instructional program in which a student is enrolled;

(iv) The third-party credential is included on the workforce education, continuing education, or academic transcript from the college; and

(I) The third-party credential includes no fewer than the equivalent of nine (9) semester credit hours or 144 contact hours; or

(II) The third-party credential is awarded in a high-demand field as defined in Coordinating Board rule, and includes no fewer than the equivalent of five (5) semester credit hours or 80 contact hours; and

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet

the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure 1, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure 1, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure 1, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.
Figure: 19 TAC §13.646(b)(2) (No change.)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.643(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize other recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Bard to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), or (1)(A)(v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

(i) Four years for baccalaureate degree holders;

(ii) Two years for associate degree holders; or

(iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.643(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15) after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.643(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.643(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2026 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2026, and the recipient must have earned the credential no earlier than June 1, 2025.

(A) An associate degree that the institution conferred in and reported for fiscal year 2026 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2025.

(B) A credential earned prior to September 1, 2025, but reported for fiscal year 2026 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2025, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, an Institutional Credential Leading to Licensure or Certification, or Third-Party credential;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.[; and]

[(G) Opportunity High School Diploma.]

(3) An institution may not receive funding for more than one credential of each type listed in paragraph(2)(A) - (F) of this subsection, where each subparagraph corresponds to a type, conferred to an individual student in a single reporting year.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a single reporting year and conferred at least one such credential in a discipline designated as a high-demand field for

that institution, as described in subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

§13.649. Performance Tier: Rates.

An institution receives the [~~following~~] rate in Figure 19 TAC §13.649 for each fundable outcome, weighted according to the applicable provisions of §13.556 and §13.557 [~~§13.559~~] of this subchapter (relating to Performance Tier: Fundable Outcomes and Performance Tier: Fundable Outcome Weights, respectively).

Figure: 19 TAC §13.649

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

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6495

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

The Texas Education Agency (TEA) proposes amendments to §§89.1035, 89.1070, and 89.1080 and new §89.1127, concerning adaptations for special populations. The proposed revisions would implement House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, by updating statutory cross references, aligning provisions related to graduation requirements for students receiving special education services and regional day school programs for the deaf, and adding a new section on the noneducational community-based support services grant program.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 89.1035 addresses age ranges for student eligibility for special education and related services. The proposed amendment would update statutory cross references to align with HB 2 and SB 568.

Section 89.1070 addresses graduation requirements for students receiving special education and related services. The proposed amendment would add new subsection (d) to align with HB 2 and SB 568 to clarify the qualifications a student receiving special education and related services must meet to receive the distinguished level of achievement with modified curriculum.

Section 89.1070 would also be modified to update cross references to the state standards in the Texas Administrative Code.

Section 89.1080 references regional day school programs for the deaf. The proposed amendment would update statutory cross references and add reference to the state plan to align with HB 2 and SB 568. Additionally, to align with HB 2 and SB 568, the proposed amendment would require funds received by fiscal agents or program administrators under Texas Education Code (TEC), §48.315, to be spent on program related expenses, and proposed new subsection (c) would address what must be included in a cooperative agreement between a member district and its fiscal agent.

Proposed new §89.1127 would establish procedures and criteria for the allocation of noneducational community-based support services grants to align with HB 2 and SB 568. The process to access noneducational community-based support services would be a grant system provided to parents of eligible students. Proposed new subsection (a) would establish definitions. Proposed new subsection (b) would require TEA to designate a regional education service center (ESC) to administer grants under this program. Proposed new subsection (c) would establish requirements for school districts. Proposed new subsection (d) would outline the operational responsibilities of the designated ESC. Proposed new subsection (e) would establish a requirement for a parent of an eligible student to complete the application process and procedures developed by the ESC to access the grants under this section. Proposed new subsection (f) would establish initial grant amounts under this program.

FISCAL IMPACT: Jennifer Alexander, associate commissioner for special populations programs, reporting and student support, 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 and expand existing regulations. Proposed new §89.1127 would establish procedures and criteria for the allocation of noneducational community-based support services grants, and proposed amendments to §89.1035 and §89.1070 would expand graduation requirements for students receiving special education and related services as required by and to align with HB 2 and SB 568.

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 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: Ms. Alexander 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 ensure the rules are current by aligning them with federal law, state statute, and administrative rule and assist school districts with general program requirements, local district procedures, and updated graduation requirements for students receiving special education and related services. Proposed new §89.1127 would provide targeted support to students with disabilities who are at risk of residential placement. By requiring school districts to inform families and designate staff to assist with grant access, the program strengthens family engagement and promotes educational continuity in less restrictive settings. It also empowers families by equipping them with resources and guidance to make informed decisions about their child's care and education. This initiative is expected to reduce reliance on costly residential placements and improve long-term outcomes for students and their communities. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

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: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins November 7, 2025, and ends December 8, 2025. Public hearings will be conducted to solicit testimony and input on the proposed amendment at 9:30 a.m. on November 18 and 21, 2025. The public may participate in either hearing virtually by linking to the hearing at https://us02web.zoom.us/j/83244021734. Anyone wishing to testify must be present at 9:30 a.m. and indicate to TEA staff their intent to comment and are encouraged to also send written testimony to sped@tea.texas.gov. Each hearing will conclude once all who have signed in have been given the opportunity to comment. Questions about the hearings should be directed to Derek Hollingsworth, Special Populations Policy and Compliance, Derek.Hollingsworth@tea.texas.gov.

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/.

DIVISION 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS

19 TAC §§89.1035, 89.1070, 89.1080

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §28.025, which establishes requirements related to high school graduation and academic achievement records; TEC, §29.001, which requires the agency to develop and revise as necessary a comprehensive system to ensure compliance with special education law; TEC, §29.003, which requires the agency to develop eligibility criteria for students receiving special education services; TEC, §29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes noneducational community-based support services grants for certain students with disabilities and requires the commissioner of education to adopt rules regarding the grants awarded under this section; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which grants the commissioner rulemaking authority to implement TEC, Chapter 29, Educational Programs, Subchapter A, Special Education Program; TEC, §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the agency to develop and administer a statewide plan for the education of children with visual impairments, children who are deaf or hard of hearing, and children who are deafblind; TEC, §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for students with visual impairments; TEC, §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes the legislative intent concerning regional day schools for the deaf; TEC, §30.082, which establishes a director of services to students who are deaf or hard of hearing; TEC, §30.085, which establishes the use of local resources in the establishment and operation of the regional day school programs for the deaf; TEC, §30.086, which establishes powers and duties of the agency regarding regional day schools for the deaf; TEC, §48.1021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes special education service group funding; TEC, §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes funding for regional day school programs for the deaf; Texas Government Code, §392.002, which establishes the use of person first respectful language required by the legislature and the Texas Legislative Council; 34 Code of Federal Regulations (CFR), §300.8, which defines terms regarding a child with a disability; 34 CFR, §300.100, which establishes eligibility criteria for a state to receive assistance; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have free appropriate public education available; 34 CFR, §300.102, which establishes criteria for limitation-exception to free appropriate public education for certain ages; 34 CFR, §300.111, which defines the requirement of the state to have policies and procedures in place regarding child find; 34 CFR, §300.149, which establishes the state education agency's responsibility for general supervision; 34 CFR, §300.504, which establishes a requirement for a procedural safeguards notice; and 34 CFR, §300.600, which establishes requirements for state monitoring and enforcement.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§28.025; 29.001; 29.003; 29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; 29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.082; 30.085; 30.086; 48.1021, as added by HB 2 and SB 568, 89th Texas Legislature,

Regular Session, 2025; and 48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations, §§300.8, 300.100, 300.101, 300.102, 300.111, 300.149, 300.504, and 300.600.

§89.1035. Age Ranges for Student Eligibility.

(a) Pursuant to state and federal law, services provided in accordance with this subchapter must be available to all eligible students ages 3-21. Services will be made available to eligible students on their third birthday. Graduation pursuant to §89.1070(b)(1) of this title (relating to Graduation Requirements) or meeting maximum age eligibility terminates a student's eligibility to receive services in accordance with this subchapter. An eligible student receiving special education services who is 21 years of age on September 1 of a school year will be eligible for services through the end of that school year or until graduation with a diploma pursuant to §89.1070 of this title, whichever comes first.

(b) In accordance with Texas Education Code, §29.003 [~~§§29.003, 30.002(a), and 30.081~~], a free appropriate public education must be available from birth to students with visual impairments or who are deaf or hard of hearing.

§89.1070. Graduation Requirements.

(a) Graduation under subsection (b)(1) of this section or reaching maximum age eligibility described by §89.1035 of this title (relating to Age Ranges for Student Eligibility) terminates a student's eligibility for special education services under this subchapter and Part B of the Individuals with Disabilities Education Act and entitlement to the benefits of the Foundation School Program, as provided in Texas Education Code (TEC), §48.003(a).

(b) A student who receives special education services may graduate and be awarded a diploma if the student meets one of the following conditions.

(1) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117 and [~~,~~] 126-128 [~~, and 130~~] of this title; satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program) applicable to students in general education; and demonstrated satisfactory performance as established for students in general education in TEC, Chapters 28 and 39, on the required end-of-course assessment instruments, which could include meeting the requirements of subsection (e) [~~(d)~~] of this section.

(2) The student has demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117 and [~~,~~] 126-128 [~~, and 130~~] of this title; the student has satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title applicable to students in general education; and the student's admission, review, and dismissal (ARD) committee has determined that satisfactory performance, beyond what would otherwise be required in subsections (b)(1) and (e) [~~(d)~~] of this section, on the required end-of-course assessment instruments is not required for graduation.

(3) The student has satisfactorily completed credit requirements for graduation under the Foundation High School Program specified in §74.12 of this title through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education; demonstrated mastery of the required state standards (or district standards if greater) in Chapters 110-117 and [~~,~~] 126-128 [~~, and 130~~] of this title in accordance with modified content and curriculum expectations established in the student's individualized education program (IEP); and demonstrated satisfactory performance on the required end-of-course assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course assessment instruments is not required for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:

(A) consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;

(B) consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district; or

(C) the student has access to services or other supports that are not within the legal responsibility of public education, including employment or postsecondary education established through transition planning.

(c) A student receiving special education services may earn an endorsement under §74.13 of this title (relating to Endorsements) if the student:

(1) satisfactorily completes the requirements for graduation under the Foundation High School Program specified in §74.12 of this title as well as the additional credit requirements in mathematics, science, and elective courses as specified in §74.13(e) of this title with or without modified curriculum;

(2) satisfactorily completes the courses required for the endorsement under §74.13(f) of this title without any modified curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee; and

(3) performs satisfactorily as established in TEC, Chapter 39, on the required end-of-course assessment instruments unless the student's ARD committee determines that satisfactory performance is not required.

(d) A student receiving special education services may earn the distinguished level of achievement under §74.11(f) of this title (relating to High School Graduation Requirements) with modified curriculum if the student meets the requirements for an endorsement as specified by subsection (c) of this section and the student's ARD committee determines and documents in the student's IEP that the curriculum required for the distinguished level of achievement, as modified, is sufficiently rigorous.

(e) [~~(d)~~] A student receiving special education services classified in Grade 11 or 12 who has taken each of the state assessments required by Chapter 101, Subchapter CC, of this title (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD of this title (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive a diploma under subsection (b)(1) of this section.

(f) [~~(e)~~] A student who has reached maximum age eligibility in accordance with §89.1035 of this title without meeting the credit, curriculum, and assessment requirements specified in subsection (b) of this section is not eligible to receive a diploma but may receive a certificate of attendance as described in TEC, §28.025(f).

(g) [(f)] A summary of academic achievement and functional performance must be provided prior to exit from public school for students who meet one of the following conditions:

(1) a student who has met requirements for graduation specified by subsection (b)(1) of this section or who has exceeded the maximum age eligibility as described by §89.1035 of this title; or

(2) a student who has met requirements for graduation specified in subsection (b)(2) or (b)(3)(A), (B), or (C) of this section. Additionally, a student meeting this condition is entitled to an evaluation as described in 34 Code of Federal Regulations (CFR), §300.305(e)(1).

(h) [(g)] The summary of performance described by subsection (g) [(f)] of this section must include recommendations on how to assist the student in meeting the student's postsecondary goals, as required by 34 CFR, §300.305(e)(3). This summary must also consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals.

(i) [(h)] Students who meet graduation requirements under subsection (b)(2) or (b)(3)(A), (B), or (C) of this section and who will continue enrollment in public school to receive special education services aligned to their transition plan will be provided the summary of performance described in subsections (g) [(f)] and (h) [(g)] of this section upon exit from the public school system. These students are entitled to participate in commencement ceremonies and receive a certificate of attendance after completing four years of high school, as specified by TEC, §28.025(f).

(j) [(i)] Employability and self-help skills referenced under subsection (b)(3) of this section are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

(k) [(j)] For students who graduate and receive a diploma according to subsections (b)(2) or (b)(3)(A), (B), or (C) of this section, the ARD committee must determine needed special education services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

(l) [(k)] For purposes of this section, modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in Chapters 110-117 and [,] 126-128 [, and 130] of this title. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

§89.1080. Regional Day School Program for the Deaf.

(a) In accordance with Texas Education Code (TEC), Chapter 30, Subchapter D, and the state plan under TEC, §30.002, a [~~§§30.081-30.087, local school districts shall have access to regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. Any~~] student who is deaf or hard of hearing [~~with a disability that severely impairs processing linguistic information through hearing, even with recommended amplification, and that adversely affects educational performance~~] shall be eligible for consideration for a regional day school program for the deaf [~~the Regional Day School Program for the Deaf~~], subject to the admission, review, and dismissal committee recommendations.

(b) The fiscal agent or program administrator of a regional day school program for the deaf must expend funds received under TEC, §48.315, on expenses necessary to administer the program.

(c) A fiscal agent or program administrator and each of its members must minimally address the following in their cooperative agreement:

(1) the percentage of the allotment received under TEC, §48.102 and §48.1021, by the program member for a participating student, or, alternatively, an agreed upon dollar amount, that will be submitted to the fiscal agent or program administrator to assist in the provision of that student's services;

(2) the method by which additional expenses shall be charged to the program member by the fiscal agent or program administrator once funds under paragraph (1) of this subsection and subsection (b) of this section are allocated toward the student's services; and

(3) an assurance from the fiscal agent or program administrator that the additional expenses charged under paragraph (2) of this subsection for specific services are aligned with current regional rates for those services to the extent those rates can be calculated.

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

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Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
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DIVISION 4. SPECIAL EDUCATION FUNDING

19 TAC §89.1127

STATUTORY AUTHORITY. The new rule is proposed under Texas Education Code (TEC), §28.025, which establishes requirements related to high school graduation and academic achievement records; TEC, §29.001, which requires the agency to develop and revise as necessary a comprehensive system to ensure compliance with special education law; TEC, §29.003, which requires the agency to develop eligibility criteria for students receiving special education services; TEC, §29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes noneducational community-based support services grants for certain students with disabilities and requires the commissioner of education to adopt rules regarding the grants awarded under this section; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which grants the commissioner rulemaking authority to implement TEC, Chapter 29, Educational Programs, Subchapter A, Special Education Program; TEC, §30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the agency to develop and administer a statewide plan for the education of children with visual impairments, children who are deaf or hard of hearing, and children who are deafblind; TEC, §30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for students with visual impairments; TEC, §30.081, as amended by HB 2 and SB 568, 89th Texas Legislature,

Regular Session, 2025, which establishes the legislative intent concerning regional day schools for the deaf; TEC, §30.082, which establishes a director of services to students who are deaf or hard of hearing; TEC, §30.085, which establishes the use of local resources in the establishment and operation of the regional day school programs for the deaf; TEC, §30.086, which establishes powers and duties of the agency regarding regional day schools for the deaf; TEC, §48.1021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes special education service group funding; TEC, §48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes funding for regional day school programs for the deaf; Texas Government Code, §392.002, which establishes the use of person first respectful language required by the legislature and the Texas Legislative Council; 34 Code of Federal Regulations (CFR), §300.8, which defines terms regarding a child with a disability; 34 CFR, §300.100, which establishes eligibility criteria for a state to receive assistance; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have free appropriate public education available; 34 CFR, §300.102, which establishes criteria for limitation-exception to free appropriate public education for certain ages; 34 CFR, §300.111, which defines the requirement of the state to have policies and procedures in place regarding child find; 34 CFR, §300.149, which establishes the state education agency's responsibility for general supervision; 34 CFR, §300.504, which establishes a requirement for a procedural safeguards notice; and 34 CFR, §300.600, which establishes requirements for state monitoring and enforcement.

CROSS REFERENCE TO STATUTE. The new rule implements Texas Education Code, §§28.025; 29.001; 29.003; 29.013, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; 29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.002, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.0021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.081, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 30.082; 30.085; 30.086; 48.1021, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; and 48.315, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations, §§300.8, 300.100, 300.101, 300.102, 300.111, 300.149, 300.504, and 300.600.

§89.1127. Noneducational Community-Based Support Services Grant Program.

(a) Definitions. The following definitions shall apply.

(1) "At risk of being placed in a residential program" means the student's admission, review, and dismissal committee has discussed this more restrictive placement as a possibility if the student's current placement is determined to not provide the student a free appropriate public education. This would be confirmed with the school system prior to approving a grant for this reason.

(2) "Day placement program" means a day placement program approved under Texas Education Code, §29.008, which could include a student who is receiving special education and related services in or on a nonpublic facility or on a district campus or facility in a special education setting more than 50% of the instructional day.

(3) "Parent" means a person who meets the definition of parent in 34 Code of Federal Regulations, §300.30.

(4) "School district" includes open-enrollment charter schools.

(b) The Texas Education Agency shall designate a regional education service center (ESC) to administer grants under this program.

(c) Each school district must:

(1) inform the parent of an eligible student of the availability of grants under this program; and

(2) designate a staff member to assist families in accessing grants under this program.

(d) The designated ESC shall develop or establish the following:

(1) an accessible application for a parent to apply for a grant;

(2) procedures to verify with the agency and the school district, when necessary, the student's eligibility for a grant;

(3) procedures related to establishing an account for a parent to access the grant funds once a student is determined eligible;

(4) a list of approved services and service providers;

(5) procedures for a parent or service provider to request placement on the list of approved services and service providers;

(6) procedures to pay service providers for approved services; and

(7) procedures for a parent to request an increase in their grant amount.

(e) A parent of an eligible student must complete the application process and the procedures developed by the designated ESC to access the grants under this program.

(f) Initial grant amounts under this program shall be $5,000, subject to available funding.

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 October 27, 2025.

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Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
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TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 161. PHYSICIAN LICENSURE

The Texas Medical Board (Board) proposes new rule §161.48, concerning Physician Graduates, and new rule §161.53, concerning Provisional License to Foreign Medical License Holders with Offers of Employment.

These rules are mandated by the passage of HB 2038 (89th Regular Legislative Session) which amended the Texas Occupations

Code Chapter 155. HB 2038, known as the "DOCTOR Act," provides new pathways to licensing foreign trained physicians and medical school graduates who do not match into a resident training program.

The proposed new sections are as follows:

New §161.48, Physician Graduates, provides a pathway for certain individuals to be issued a limited license under to practice medicine under a supervising practice agreement with a sponsoring physician. The Bill provides that the Board shall issue a license to an individual who has graduated from a board-recognized accredited medical school in the United States or Canada or a medical school located outside of the United States and Canada that the board recognizes as acceptable; be licensed and in good standing to practice medicine in another country; has passed the first and second components of the USMLE; and is not enrolled in a board-approved postgraduate residency program. The bill requires the Medical Board to adopt rules as necessary to implement the new provisions of the Texas Occupations Code.

New §161.53, Provisional License to Foreign Medical License Holders with Offers of Employment, provides that the Board shall issue an initial provisional license to practice medicine to an applicant who: has been granted a degree of doctor of medicine by a program of medical education that meets eligibility requirements for the applicant to apply for certification by the Educational Commission for Foreign Medial Graduates; has been licensed in good standing to practice medicine in another country and is not the subject of any pending disciplinary action before the licensing body; has completed a residency or a substantially similar postgraduate medical training required by the applicant's country of licensure; passes the Texas medical jurisprudence examination; has proficiency in the English language; is authorized under federal law to work in the United States; has been offered employment in this state as a physician by a person who provides health care services in the normal course of business in a facility-based or group practice setting, including a health system, hospital, hospital-based facility, freestanding emergency facility, or urgent care clinic; has passed the first and second steps of the USMLE examination.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that, for each year of the first five years the proposed new sections are in effect, the public benefit anticipated as a result of enforcing these proposed sections will be to increase the number of healthcare providers in Texas and thereby expand healthcare for the citizens of Texas.

Mr. Freshour has also determined that for the first five-year period these proposed new sections are in effect, there will be no fiscal impact or effect on government growth as a result of enforcing the proposed sections.

Mr. Freshour has also determined that for the first five-year period these proposed new sections are in effect there will be no probable economic cost to individuals required to comply with these proposed sections except as they relate to licensure fees.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for these proposed new sections and determined that for each year of the first five years these proposed new sections will be in effect there will be no effect on small businesses, micro businesses, or rural communities. The agency has considered alternative methods of achieving the purpose of these proposed new sections and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed, and the agency has determined that for each year of the first five years these proposed new sections are in effect:

(1) there is no additional estimated cost to the state or to local governments expected as a result of enforcing or administering these proposed new sections;

(2) there are no estimated reductions in costs to the state or to local governments as a result of enforcing or administering these proposed new sections;

(3) there is no estimated loss but there may be an increase in revenue to the state or to local governments as a result of enforcing or administering these proposed new sections; and

(4) there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering these proposed and new sections.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years these proposed new sections will be in effect, there may be an effect on local economy and local employment by virtue of attracting new healthcare practitioners to the state.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed new rules. For each year of the first five years the proposed new rules will be in effect, Mr. Freshour 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 future legislative appropriations to the agency;

(4) the proposed rules do require an increase in fees paid to the agency;

(5) the proposed rules do create a new regulation;

(6) the proposed rules do not expand, limit, or repeal an existing regulation;

(7) the proposed rules do increase the number of individuals subject to the rule's applicability; and

(8) the proposed rules positively affect this state's economy.

Comments on the proposal may be submitted using this link https://forms.cloud.microsoft/g/LF8Nq11i55.

SUBCHAPTER J. LIMITED LICENSES

22 TAC §161.48

The proposed new rule(s) are proposed pursuant to the passage of HB 2038 (DOCTOR Act) (89th Regular Legislative Session) which added Texas Occupations Code Sections 155.1015 and 155.201-155.212, and requires the Board to adopt rules to implement such sections. Specifically, 155.1015 and 155.202, respectively, provide authority for the Board to recommend and adopt rules to implement and regulate these new licenses and licensees. No other statutes, articles or codes are affected by this proposal.

§161.48. Physician Graduates.

(a) All applicants for a Physician Graduate License must meet the general eligibility requirements set forth in §155.203 of the Act and submit:

(1) a completed board-required application form;

(2) the required application fee;

(3) additional fees and surcharges as applicable;

(4) documentation of the following:

(A) proof of residency in Texas;

(B) proof of US citizenship, legal permanent residency in the US, or federal work authorization;

(C) Dean's Certification of Graduation for US and Canadian medical graduates;

(D) proof of ECFMG certification for international medical school graduates;

(E) passage of the Texas Jurisprudence examination with at least a score of 75;

(F) certified transcript of Examination Scores documenting passage within three attempts of the first and of the second components of an examination in accordance with §155.0511 of the Act;

(G) attestation of no current enrollment in a board-approved postgraduate residency program;

(H) documentation of prior enrollment in a board-approved postgraduate residency program, if applicable;

(I) all disciplinary history related to any professional license, if applicable;

(J) FBI/DPS Fingerprint Report;

(K) alternate name or name change, if applicable;

(L) medical school transcript, if requested;

(M) arrest records, if applicable;

(N) malpractice records, if applicable;

(O) treatment records for alcohol or substance use disorder or any physical or mental illness impacting the ability to practice, if applicable; and

(P) any other documentation deemed necessary to process an application.

(b) Applications are valid for one year from the date of submission. The one-year period can be extended for the following reasons:

(1) delay in application processing;

(2) referral of the applicant to the Licensure Committee;

(3) unanticipated military assignments, medical reasons, or catastrophic events; or

(4) other extenuating circumstances.

(c) The board may allow substitute documents where exhaustive efforts on the applicant's part to secure the required documents are presented.

(d) A sponsoring physician of a physician graduate must submit an attestation confirming they meet the criteria of §155.205 of the Act and submit a supervising practice agreement that documents:

(1) the position offered to the physician graduate;

(2) description of the medical services and specialty medical services to be provided by the physician graduate in accordance with §155.205(a)(4) of the Act;

(3) physical address of the work location for the physician graduate and sponsoring physician;

(4) description of the on-site supervision arrangement; and

(5) the number of clinical hours to be practiced by the physician graduate.

(e) A sponsoring physician may authorize a physician graduate to practice under the delegation and supervision of one other physician, in accordance with §155.206(c) of the Act.

(f) A sponsoring physician is limited to sponsoring only two physician graduates.

(g) A sponsoring physician is subject to all provisions of Chapter 157 of the Act; however, if any provision in Chapter 155, Subchapter E of the Act imposes stricter requirements, those shall prevail.

(h) Physician graduate medical practice is subject to the limitations and required disclosures set forth in §155.207 of the Act, in addition to the following:

(1) The physician graduate's practice is limited to the confines of the location documented in the supervising practice agreement submitted to the Board by the sponsoring physician;

(2) A physician graduate may not have more than one supervising practice agreement;

(3) A physician graduate is limited to no more than 60 clinical hours per week;

(4) The sponsoring physician or other properly designated physician under §155.206 of the Act must be on-site at all times when the physician graduate is practicing;

(5) The physician graduate license holder is not authorized to delegate to or supervise anyone;

(6) The physician graduate is not authorized to order or prescribe a controlled substance listed as a schedule II;

(7) Mandatory updates shall be reported to the Board by the physician graduate license holder and sponsoring physician within 10 days in accordance with §162.2 of this title (relating to Profile Updates), including, but not limited to, matching in an approved postgraduate training program;

(8) The physician graduate must cease practice immediately in the event of the loss of employment and/or sponsoring physician, for any reason;

(9) The physician graduate has 60 days to obtain a new position and a new sponsoring physician and shall not practice until a new sponsoring physician is obtained and approved by the Board;

(10) At the end of the 60-day period, if the physician graduate does not have employment and a sponsoring physician, the physician graduate license shall be automatically terminated; and

(11) If a physician graduate license is terminated, the physician graduate must submit a new application and meet all eligibility requirements set forth in this subchapter.

(i) Registration and Renewal of Physician Graduate License

(1) Within 90 days of a license being *initially* issued, it must be registered by:

(A) completing a board registration form;

(B) submitting the initial registration fee of $541, and additional fees and surcharges, as applicable;

(C) providing requested information related to their online verification; and

(D) providing other relevant information requested by the board staff.

(2) Subsequent renewal is biennially by:

(A) completing a board renewal form;

(B) submitting payment of a biennial renewal fee of $537, and additional fees and surcharges, as applicable;

(C) verifying and updating information related to their online verification;

(D) completing biennial continuing medical education (CME) required under Chapter 156 of the Act and Chapter 161, Subchapter H of this title (relating to Continuing Medical Education Requirements for License Renewal);

(E) documentation of meeting all qualifications under Section 155.203 of the Act;

(F) submission of renewal attestation form completed by the sponsoring physician;

(G) if there is a new sponsoring physician designated the renewal will not be granted until the qualification of the new sponsoring physician and a new supervising practice agreement is filed and verified by Board staff; and

(H) providing other relevant information requested by board staff.

(3) Failure to renew before a license's expiration date will result in increased charges as follows:

(A) 1-90 days late--renewal fee plus one half of the renewal fee; and

(B) 91 days-1 year late--double the renewal fee.

(4) Failure to renew within one year after the expiration date of the license will result in cancellation of the license.

(j) A physician graduate license holder is subject to board rules, including rules regarding complaints, investigations, and disciplinary sanctions and procedures 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.

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Scott Freshour
General Counsel
Texas Medical Board
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SUBCHAPTER K. TEMPORARY LICENSES

22 TAC §161.53

The proposed new rule(s) are proposed pursuant to the passage of HB 2038 (DOCTOR Act) (89th Regular Legislative Session) which added Texas Occupations Code Sections 155.1015 and 155.201-155.212, and requires the Board to adopt rules to implement such sections. Specifically, 155.1015 and 155.202, respectively, provide authority for the Board to recommend and adopt rules to implement and regulate these new licenses and licensees. No other statutes, articles or codes are affected by this proposal.

§161.53. Provisional License to Foreign Medical License Holders with Offers of Employment.

(a) All applicants for an Initial Provisional License must:

(1) meet the general eligibility requirements set forth in §155.1015(a) - (d) of the Act;

(2) declare the area of medical specialty in which they will practice; and

(3) meet the criteria under subsection (b)(5) of this section.

(b) All applicants must submit a completed application for licensure and all documents and information necessary to complete an applicant's request for licensure including, but not limited to:

(1) the required application fee;

(2) additional fees and surcharges, as applicable;

(3) proof of ECFMG certification;

(4) licensure verification form from the licensing body of the other country as required by §155.1015(a)(2) of the Act;

(5) proof of completion of a residency or a substantially similar postgraduate medical training required by applicant's country of licensure that is in the same specialty as the area of medicine the applicant will practice in while under the Provisional License; and:

(A) is recognized as substantially similar by the board; or

(B) completion of a comprehensive competency evaluation administered by a board-approved assessment program, with a favorable recommendation regarding competency and proficiency in the area of specialty practice in which they will practice;

(6) passage of the Texas Jurisprudence examination with at least a score of 75;

(7) copy of federal work authorization;

(8) copy of offer of employment to practice only in:

(A) a facility-based or group practice setting as set forth in §155.1015(d) of the Act; and

(B) the specialty that applicant declared in the application;

(9) certified transcript of Examination Scores documenting passage of USMLE Step 1 within three attempts and USMLE Step 2 within three attempts;

(10) FBI/DPS Fingerprint Report;

(11) documentation of alternate name or name change, if applicable; and

(12) medical school transcript, if requested;

(13) specialty board certification, if applicable;

(14) arrest records, if applicable;

(15) malpractice records, if applicable;

(16) all disciplinary history related to any professional license, if applicable;

(17) copies of all comprehensive competency evaluations administered by a board-approved assessment program demonstrating competency and proficiency in the area of specialty practice in which they will practice, if applicable;

(18) treatment records for alcohol or substance use disorder or any physical or mental illness impacting the ability to practice, if applicable;

(19) Professional or Work History Evaluation forms demonstrating or relating to the practice of medicine in the area of the declared specialty for the preceding two years from the date of the application as a physician; and

(20) any other documentation deemed necessary to process an application.

(c) Any document received from a direct third-party or primary source that is in a language other than the English language must:

(1) have a certified translation prepared;

(2) be translated by a translation agency that is a member of the American Translations Association or a United States college or university official;

(3) be verified by the translator as a "true word for word" translation; and

(4) be included with the copy of the translation.

(d) Initial Provisional License Standards:

(1) The initial provisional license is valid for two years.

(2) Practice is limited as set forth in §155.1015(d) of the Act.

(3) The initial provisional license holder is not authorized to delegate or supervise.

(4) Mandatory updates shall be reported to the Board by the initial provisional license holder and employer within 10 days in accordance with §162.2(b) of this title (relating to Profile Updates), including, but not limited to, any change in status of the provisional holder's license in another country on which the provisional license was granted.

(5) If employment is terminated for any reason the license is placed in a suspended status and, the provisional license holder must;

(A) cease practice immediately;

(B) notify the Board in writing within 48 hours of termination;

(C) obtain a new position by a qualified employer within 60 days; and

(D) submit to and obtain approval from the Board of the qualified employer.

(6) Failure to report, to the Board, within 48 hours of termination eliminates the 60-day period to find new employment and the provisional license is automatically canceled effective on the date of termination.

(7) The two-year duration of the initial provisional license will be tolled while the provisional license holder attempts to obtain qualified employment. The two-year duration will be extended for the number of days equal to the number of days between ending and beginning qualified employment. Any extension of the initial provisional license's two-year duration is not to exceed a maximum of 60 days. If the provisional license holder is unable to obtain qualified employment within 60 days, or the total extensions during the initial provisional license period exceeds 60 days, then the initial provisional license is terminated.

(8) In the event of termination of the provisional license holder's employment, the employer's medical director, chief medical officer, lead physician, or supervising physician shall ensure written notice to the Board within 72 hours of the termination.

(9) If a provisional license holder does not fully complete their initial provisional license period, for any reason, they will receive no credit for prior initial provisional practice time and:

(A) may reapply for a second initial provisional license; and

(B) may be required to appear before the licensure committee of the Board;

(10) An applicant is limited to a maximum of two initial provisional licenses.

(11) A Provisional License Holder is limited to practicing in the area of medical specialty declared in the Provisional License Holder's approved application.

(12) The provisional license holder must comply with the Continuing Medical Education (CME) requirements set out in Subchapter H, §161.35 of this title (relating to Continuing Medical Education (CME) Requirements for License Renewal). The applicant must create and utilize an account with the Board approved CME tracker for tracking and meeting the CME requirements.

(e) All applicants for a Second Provisional License must meet the general eligibility requirements set forth in §155.1015(e) and (f) of the Act and submit a completed application for licensure and all documents and information necessary to complete an applicant's request for licensure including, but not limited to:

(1) completion of a two-year period during an initial provisional license;

(2) the required application fee;

(3) additional fees and surcharges as applicable;

(4) all disciplinary history related to any professional license, if applicable;

(5) Professional or Work History Evaluation form from first provisional employer;

(6) copy of employment offer that meets the criteria set forth in §155.1015(f) of the Act;

(7) successful remediation of deficiencies identified in the comprehensive competency assessment evaluation completed for issuance of the initial provisional license, if applicable;

(8) any other documentation deemed necessary to process an application; and

(9) If a pathway to board specialization exists for a Provisional License Holder from an organization recognized by the Board through §164.4 of this title (relating to Advertising Board Certification), the certification granting organization must submit a letter, on behalf of the provisional license holder, of satisfactory progress towards board specialization eligibility.

(f) Second Provisional License Standards:

(1) The second provisional license is valid for two years.

(2) Practice is limited as set forth in §155.1015(f) of the Act.

(3) The second provisional license holder may delegate or supervise.

(4) Mandatory updates shall be reported to the Board by the second provisional license holder and employer within 10 days in accordance with §162.2 of this title, including, but not limited to, any change in status of the provisional holder's license in another country on which the provisional license was granted.

(5) If employment is terminated for any reason, the provisional license holder must;

(A) cease practice immediately;

(B) the license is suspended automatically;

(C) obtain a new position by a qualified employer within 60 days; and

(D) submit to and obtain the approval of the Board proof of qualified employer.

(6) Failure to make the report within 48 hours of termination eliminates the 60-day period to find new employment and the provisional license is automatically canceled effective on the date of termination.

(7) The two-year duration of the second provisional license will be tolled while the provisional license holder attempts to obtain qualified employment. The two-year duration will be extended for the number of days equal to the number of days between ending and beginning qualified employment. Any extension of the second provisional license's two-year duration is not to exceed a maximum of 60 days. If the provisional license holder is unable to obtain qualified employment within 60 days, or the total extensions during the second provisional license period exceeds 60 days, then the second provisional license is terminated.

(8) In the event of termination of the provisional license holder's employment, the employer's medical director, chief medical officer, lead physician, or supervising physician shall ensure written notice to the Board within 72 hours of the termination.

(9) If a provisional license holder does not fully complete their second provisional license period, for any reason, they will receive no credit for prior second provisional practice time and;

(A) may reapply for a second initial provisional license; and

(B) may be required to appear before the licensure committee of the board;

(10) An applicant is limited to a maximum of two second provisional licenses.

(11) A Provisional License Holder is limited to practicing in the area of medical specialty declared in the Provisional License Holder's approved application.

(12) the provisional license holder must comply with the Continuing Medical Education (CME) requirements set out in Subchapter H, §161.35 of this title. The applicant must create and utilize an account with the Board approved CME tracker for tracking and meeting the CME requirements.

(g) All applicants for a Full License must meet the general eligibility requirements set forth in §155.1015(g) and (h) of the Act and must submit a completed application for licensure and all documents and information necessary to complete an applicant's request for licensure including, but not limited to:

(1) certified transcript of Examination Scores documenting passage of each part of USMLE within three attempts and within seven years;

(2) proof of completion of an Initial Provisional and Second Provisional for the requisite time periods as set forth in subsections (d) and (f) within a period of five years, in total, calculated from the first day of an Initial Provisional license to the last day of a Second Provisional license;

(3) If a pathway to board specialization exists for a Provisional License Holder from an organization recognized by the Board through §164.4 of this title, the certification granting organization must submit a letter, on behalf of the provisional license holder, of satisfactory progress towards board specialization eligibility;

(4) Professional or Work History Evaluation form from second provisional employer; and

(5) any other documentation deemed necessary to process an application.

(h) Applications are valid for one year from the date of submission. The one-year period can be extended for the following reasons:

(1) delay in processing application;

(2) referral of the applicant to the Licensure Committee;

(3) unanticipated military assignments, medical reasons, or catastrophic events; or

(4) other extenuating circumstances.

(i) The board may allow substitute documents where exhaustive efforts on the applicant's part to secure the required documents are presented.

(j) A Provisional License holder is subject to board rules, including rules regarding complaints, investigations, and disciplinary procedures and sanctions of the board.

(k) The Executive Director may approve reasonable deviations from the required provisional licensee timelines due to extenuating circumstances. The provisional licensee may appeal the Executive Director's decision to the Licensure Committee.

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

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Texas Medical Board
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TITLE 30. ENVIRONMENTAL QUALITY

PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHAPTER 331. UNDERGROUND INJECTION CONTROL

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§331.19, 331.107, and 331.108.

Background and Summary of the Factual Basis for the Proposed Rules

This rulemaking implements Senate Bill (SB) 616 and SB 1061, 89th Texas Legislature, Regular Session, 2025, relating to certain injection wells transecting the Edwards Aquifer used for aquifer storage and recovery (ASR) projects and Class III production area authorizations (PAAs). SB 616 allows for additional exceptions to prohibitions on drilling into or through the Edwards Aquifer. SB 1061 allows for amendments to Class III PAAs to be uncontested matters if certain conditions are met and requires the commission to prioritize conservation of regional groundwater supplies when considering amendment to restoration table values.

The proposed rulemaking implements SB 616 by amending the commission's underground injection control rules to allow authorization of certain types of injection wells that transect or terminate in the Edwards Aquifer, either by permit or by rule, and to allow for authorization of an ASR injection well that transects the Edwards Aquifer as long as the geologic formation used for injection underlies the Edwards Aquifer and the injection well would be located in either the area of Williamson County east of Interstate Highway 35 or in Medina County. The proposed rulemaking implements SB 1061 by amending the commission's underground injection control rules to allow for amendment to an in-situ uranium mining PAA to be an uncontested matter if certain conditions are met and requiring the commission to prioritize the conservation of regional groundwater water supplies when reviewing an application to amend a restoration table value.

A PAA is an authorization, issued under the terms of a Class III injection well area permit for uranium mining, that approves the initiation of mining activities in a specified production area within a permit area, and sets specific conditions for production and restoration in each production area within an area permit. Because the SB 1061 revisions to Texas Water Code (TWC), §27.0513(d) now include amendment applications for PAAs and all of the applicability provisions applying under paragraphs (d)(1)-(4), all applications for PAAs would be uncontested matters and not subject to an opportunity for contested case hearing. Applications for PAAs are still subject to public notice requirements and opportunity to submit public comment.

Section by Section Discussion

The commission proposes to amend 30 Texas Administrative Code (TAC) §331.19 to implement SB 616 and TWC §27.051(i). The proposed revision amends the prohibition for certain injection wells in the Edwards Aquifer to allow authorization of certain aquifer storage and recovery projects. The commission proposes to amend §331.19 by adding new §331.19(a)(5) which states "wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an aquifer storage and recovery project in the area of Williamson County east of Interstate Highway 35 or in Medina County." Any injection wells subject to this allowance would still be required to comply with other applicable requirements in Chapter 331 for ASR projects.

The commission proposes to amend 30 TAC §§331.107 and 331.108 to implement SB 1061 and TWC, §27.0513. The commission proposes to amend §331.107 by adding "The commission shall prioritize the conservation of regional water supplies when considering an application to amend a restoration table value or range table." to §331.107(g)(1). The proposed amendment to §331.107 implements TWC, §27.0513(c-1) as established by SB 1061. Accordingly, the commission will give priority to the conservation of regional water supplies over the other factors listed in §331.107(g)(1)(A)-(I). The commission specifically solicits comments on the proposed amendment to paragraph 331.107(g)(1) to apply the prioritization of regional groundwater supplies when considering an application for amendment of a permit range table.

The commission's rule in §331.108 establishes that applications for PAAs are not subject to opportunity for contested case hearing if the conditions established in TWC, §27.0513(d) are met. The commission proposes to amend §331.108 by adding the phrase "…or an amendment to production area authorization…" in §331.108(a). The commission proposes to amend §331.108(a)(1)-(3) to implement the revisions to TWC, §27.0513(d)(1)-(3) as established by SB 1061. The commission proposes to amend §331.108 by adding new §331.108(a)(4), which establishes that applications for PAAs are not subject to an opportunity for contested case hearing if the Notice of Receipt of Application and Intent to Obtain Permit is provided to the individual land owners, mineral rights owners and an applicable Groundwater Conservation District not later than 30 days after the date the executive director commission determines the new or amended PAA application to be administratively complete. This proposed addition of §331.108(a)(4) implements TWC, §27.0513(d) as established by SB 1061. The public notice requirements for applications for PAAs have not changed and the revisions in §331.108(a)(4) are consistent with the existing public notice requirements in 30 TAC §§39.418 and 39.653. Under existing §39.653, the chief clerk is required to mail the Notice of Receipt of Application and Intent to Obtain Permit not later than 30 days after the executive director declares an application to be administratively complete. The commission proposes to amend §331.108(b) because the proposed revision of subsection (a) applies to amendment applications and to specify that a restoration table value in a PAA may not be amended to exceed the respective value of the permit range table and is consistent with the existing requirement in §331.107(a)(1). The commission proposes to delete §331.108(c) because all Class III injection well permits for in situ uranium mining include a permit range table as required by TWC, §27.0513(a). Because the revisions to §331.108 now include amendment applications as specified by SB 1061, all applications for PAAs would be expected to fall within the conditions in §331.108(a)(1)-(4) that render the applications as uncontested matters and not subject to an opportunity for contested case hearing. Applications for PAAs are still subject to public notice requirements and opportunity to submit public comment.

Fiscal Note: Costs to State and Local Government

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rule.

Public Benefits and Costs

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance with state law, specifically SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. The proposed rulemaking is not anticipated to result in fiscal implications for individuals or businesses during the first five-year period the proposed rule is in effect.

Local Employment Impact Statement

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

Rural Communities Impact Assessment

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

Small Business Regulatory Flexibility Analysis

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Government Growth Impact Statement

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to Texas Government Code, §2001.0225 because it does not meet the definition of a "Major environmental rule" as defined in that statute. A "Major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regular Session, 2025. SB 616 provides additional exceptions to the prohibition of injection wells into or through the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. SB 1061 is procedural in addressing application requirements for PAAs and revises the conditions for which applications for PAAs are uncontested matters and requires the commission to prioritize the conservation of regional groundwater supplies when considering an application for amendment to a restoration table value. The proposed rules revise the exceptions to the prohibition of injection wells that terminate in or transect the Edwards Aquifer to allow for certain ASR projects in Williamson or Medina Counties. The allowance for injection wells that transect the Edwards Aquifer for certain ASR projects in Williamson or Medina Counties does not alleviate or change existing requirements that would otherwise apply to ASR projects. The proposed rules also specify that the commission will prioritize the conservation of regional groundwater supplies when considering an application to revise a restoration table or permit range table. The proposed rules specify the conditions that render an application for a new or amended PAA an uncontested matter and not subject to an opportunity for a contested case hearing. The proposed rules do not change any existing requirements that protect the environment or reduce risks to human health from environmental exposure, nor do the proposed rules affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

As defined in the Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general authority of the commission. The proposed rules do not exceed a standard set by federal law. The proposed amendments do not exceed an express requirement of state law or a requirement of a delegation agreement. These rules were not developed solely under the general powers of the agency but are authorized by specific sections of the Texas Government Code and TWC, that are cited in the statutory authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invites public comment regarding the Draft Regulatory Impact Analysis Determination during the public comment period. Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis of whether Texas Government Code, Chapter 2007, is applicable. The proposed amendments implement SB 616 and SB 1061 from the 89th Texas Legislature, Regu-

lar Session, 2025. The proposed amendments in Chapter 331 do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the proposed rules. The proposed amendments to Chapter 331 amend the prohibition for injection wells that transect or terminate in the Edwards Aquifer to allow certain aquifer and storage and recovery projects in Williamson or Medina Counties and amend procedural requirements for the processing of applications for PAAs. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rules and found they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program (CMP).

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on December 8, 2025 at 2:00 p.m. in Building E, Room 201S at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by December 4, 2025. To register for the hearing, please email *Rules@tceq.texas.gov* and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on December 5, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the

hearing may do so at no cost at:

https://events.teams.microsoft.com/event/86f195cb-f093-4e21-a3b5-c3b8c2b66269@871a83a4-a1ce-4b7a-8156-3bcd93a08fba

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: *https://tceq.commentinput.com/comment/search*. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2025-033-331-WS. The comment period closes at 11:59 p.m. on December 10, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at *https://www.tceq.texas.gov/rules/propose_adopt.html*. For further information, please contact Dan Hannah, Radioactive Materials Division, Underground Injection Control Section at (512) 239-2161.

SUBCHAPTER A. GENERAL PROVISIONS

30 TAC §331.19

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; and §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act.

The proposed rules implement Senate Bill (SB) 616, 89th Texas Legislature, Regular Session, 2025; TWC, §§27.011 and 27.051.

§331.19. Injection Into or Through the Edwards Aquifer.

(a) Except as authorized in subsection (c) of this section, for applications submitted on or after September 1, 2001, injection wells that transect or terminate in the Edwards Aquifer may be authorized by rule under §331.9 of this title (relating to Injection Authorized by Rule) or by permit only as follows:

(1) wells that inject groundwater withdrawn from the Edwards Aquifer may be authorized only if:

(A) the groundwater is unaltered physically, chemically, or biologically; or

(B) the groundwater is treated in connection with remediation that is approved by state or federal order, authorization, or agreement and does not exceed the maximum contaminant levels for drinking water contained in §290.104 of this title (relating to Summary of Maximum Contaminant Levels, Maximum Residual Disinfectant Levels, Treatment Techniques, and Action Levels);

(2) wells that inject non-toxic tracer dyes into the Edwards Aquifer for the purpose of conducting scientific studies to determine hydrologic flowpaths may be authorized if the owner or operator is a federal or state agency, county, municipality, river authority, or groundwater district;

(3) improved sinkholes or caves located in karst topographic areas that inject storm water, flood water, or groundwater may be authorized; [~~and~~]

(4) wells that terminate in a portion of the Edwards Aquifer that contains groundwater with a total dissolved solids (TDS) concentration of more than 5,000 milligrams per liter, and:

(A) the water is injected by a utility owned by the City of New Braunfels;

(B) the injected water has a TDS of less than 1,500 milligrams per liter and is not domestic wastewater, municipal wastewater, or reclaimed water as defined by Chapter 210 of this title (relating to Use of Reclaimed Water);

(C) if the injected water is state water, the utility has a water right or contract for use of the water that does not prohibit use of the water in an aquifer storage and recovery project; and

(D) the injection of the water complies with the requirements of Subchapter K of this chapter (relating to Additional Requirements for Class V Injection Wells Associated with [~~With~~] Aquifer Storage and Recovery Projects); or [.]

(5) wells that transect the Edwards Aquifer and that inject water into a geologic formation that underlies the Edwards Aquifer as part of an aquifer storage and recovery project in the area of Williamson County east of Interstate Highway 35 or in Medina County.

(b) For the purposes of subsection (a) of this section, Edwards Aquifer means that portion of an arcuate belt of porous, water-bearing limestones composed of the Edwards Formation, Georgetown Formation, Comanche Peak Formation, Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, and Edwards Group trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, Hays, Travis, and Williamson Counties. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

(c) This subsection applies only to the portion of the Edwards Aquifer that is within the geographic area circumscribed by the external boundaries of the Barton Springs-Edwards Aquifer Conservation District but is not in the jurisdiction of the Edwards Aquifer Authority.

(1) Unless authorized by rule as provided in paragraph (4) of this subsection or authorized by rule, individual permit, or general permit issued by the commission as provided in paragraph (5) of this subsection, all injection wells within the geographic area described in this subsection are prohibited.

(2) This subsection does not apply to a wastewater facility permitted under Texas Water Code (TWC), Chapter 26 or a subsurface area drip dispersal system permitted under TWC, Chapter 32.

(3) Definitions. For the purposes of this subsection:

(A) Edwards Aquifer--That portion of an arcuate belt of porous, water-bearing limestones composed of the Edwards Formation, Georgetown Formation, Comanche Peak Formation, Salmon Peak Limestone, McKnight Formation, West Nueces Formation, Devil's River Limestone, Person Formation, Kainer Formation, and Edwards Group, together with the Upper Glen Rose Formation where scientific studies have documented a hydrological connection to the overlying Edwards Group trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, Hays, Travis, and Williamson Counties. The permeable aquifer units generally overlie the less-permeable Glen Rose Formation to the south, overlie the less-permeable Comanche Peak and Walnut Formations north of the Colorado River, and underlie the less-permeable Del Rio Clay regionally.

(B) Engineered aquifer storage and recovery facility--A facility with one or more wells that is located, designed, constructed, and operated for the purpose of injecting fresh water into a subsurface permeable stratum and storing the water for subsequent withdrawal and use for a beneficial purpose.

(C) Fresh water--Surface water or groundwater, without regard to whether the water has been physically, chemically, or biologically altered, that:

(i) contains a total dissolved solids concentration of not more than 1,000 milligrams per liter; and

(ii) is otherwise suitable as a source of drinking water supply.

(D) Saline portion of the Edwards Aquifer--The portion of the Edwards Aquifer that contains groundwater with a total dissolved solids concentration of more than 1,000 milligrams per liter.

(4) Injection wells authorized by rule. Injection wells within the geographic area described within this subsection may be authorized by rule under §331.9 of this title for:

(A) the injection of fresh water withdrawn from the Edwards Aquifer into a well that transects or terminates in the Edwards Aquifer for the purpose of providing additional recharge; or

(B) the injection of rainwater, storm water, flood water, or groundwater into the Edwards Aquifer by means of an improved natural recharge feature such as a sinkhole or cave located in a karst topographic area for the purpose of providing additional recharge.

(5) Injection wells authorized by rule, individual permit, or general permit. Injection wells within the geographic area described in this subsection may be authorized under a rule, individual permit, or general permit issued by the commission. A rule, individual permit, or general permit under this paragraph may authorize:

(A) an activity described under paragraph (4) of this subsection;

(B) an injection well that transects and isolates the saline portion of the Edwards Aquifer and terminates in a lower aquifer for the purpose of injecting:

(i) concentrate from a desalination facility; or

(ii) fresh water as part of an engineered aquifer storage and recovery facility;

(C) an injection well that terminates in that part of the saline portion of the Edwards Aquifer that has a TDS concentration of more than 10,000 milligrams per liter for the purpose of injecting into the saline portion of the Edwards Aquifer:

(i) concentrate from a desalination facility, provided that the injection well must be at least three miles from the closest outlet of Barton Springs; or

(ii) fresh water as part of an engineered aquifer and storage recovery facility, provided each well used for injection or withdrawal from the facility must be at least three miles from the closest outlet of Barton Springs;

(D) an injection well that transects or terminates in the Edwards Aquifer for:

(i) aquifer remediation;

(ii) the injection of a nontoxic tracer dye as part of a hydrologic study; or

(iii) another beneficial activity that is designed and undertaken for the purpose of increasing protection of an underground source of drinking water from pollution or other deleterious effects; or

(E) an injection well that transects the Edwards Aquifer for the purpose of injecting fresh water provided that:

(i) the well isolates the Edwards Aquifer and meets the construction standards in §331.183 of this title (relating to Construction and Closure Standards);

(ii) the well is part of an engineered aquifer storage and recovery facility;

(iii) the injected water is sourced from a public water system, as defined in §290.38 of this title (relating to Definitions), that is permitted by the commission;

(iv) the injected water meets water quality standards for public drinking water established in Chapter 290 of this title (relating to Public Drinking Water); and

(v) the injection complies with the provisions of Subchapter K of this chapter that are not in conflict with this section.

(6) The commission must hold a public meeting before issuing a general permit under this section.

(7) Special requirements for all injection wells subject to this subsection.

(A) Monitoring wells. An injection well subject to this subsection must be monitored by means of:

(i) one or more monitoring wells operated by the injection well owner if the executive director determines that there is an underground source of drinking water in the area of review that is potentially affected by the injection well; or

(ii) if clause (i) of this subparagraph does not apply, one or more monitoring wells operated by a party other than the injection well owner, provided that all results of monitoring are promptly made available to the injection well owner.

(iii) A monitoring well described under this subparagraph, if properly sited and completed, may also be used for monitoring a saline water production well.

(B) An injection well subject to this subsection:

(i) must not result in the waste or pollution of fresh water; and

(ii) may be authorized for a term not to exceed ten years, and the authorization for the injection well may be renewed.

(8) An authorization by rule, individual permit, or general permit under paragraph (5)(B), (C), or (E) of this subsection:

(A) must initially be associated with a small-scale research project designed to evaluate the long-term feasibility of the injection of concentrate from a desalination facility; or an aquifer storage and recovery project;

(B) may be continued following completion of the research project if:

(i) the research project information is submitted to the commission in a timely schedule;

(ii) adequate characterization of risks to the fresh water portion of the Edwards Aquifer, the fresh water portion of formations in the Trinity Group or other fresh water demonstrates to the commission's satisfaction that continued operation or continued operations with commission-approved well modifications or operational controls does not pose unreasonable risk to the fresh water portion of the Edwards Aquifer, the fresh water portion of formations in the Trinity Group, or other fresh water; and

(iii) the commission receives a notice of intent to continue operation at least 90 days before initiation of commercial well operations.

(9) Authorization under paragraph (5)(B) or (C) of this subsection must require monitoring reports be filed with the executive director at least every three months.

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 October 24, 2025.

TRD-202503840
Charmaine Backens
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Earliest possible date of adoption: December 7, 2025
For further information, please call: (512) 239-6087

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SUBCHAPTER F. STANDARDS FOR CLASS III WELL PRODUCTION AREA DEVELOPMENT

30 TAC §331.107, §331.108

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; §5.102, which provides the commission with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC; §5.103, which requires the commission to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state; §27.019, which authorizes the commission to adopt rules for the performance of its powers, duties, and functions under the Injection Well Act; and §27.0513 which authorizes the commission to adopt rules applications for production area authorizations.

The proposed rules implement Senate Bill (SB) 1061, 89th Texas Legislature, Regular Session, 2025; TWC, §27.0513.

§331.107. Restoration.

(a) Aquifer restoration. Groundwater in the production zone within the production area must be restored when mining is complete. Each Class III permit or production area authorization shall contain a description of the method for determining that groundwater has been restored in the production zone within the production area. Restoration must be achieved for all values in the restoration table of all parameters in the suite established in accordance with the requirements of §331.104(b) of this title (relating to Establishment of Baseline and Control Parameters for Excursion Detection).

(1) Restoration table. Each permit or production area authorization shall contain a restoration table for all parameters in the suite established in accordance with the requirements of §331.104(b) of this title. The restoration value for each parameter listed in the restoration table cannot exceed the maximum value for the respective parameter in the permit range table required under §331.82(e)(7) of this title (relating to Construction Requirements). A restoration table value for a parameter shall be established by:

(A) the mean concentration or value for that parameter based on all measurements from groundwater samples collected from baseline wells prior to mining activities; or

(B) a statistical analysis of baseline well information proposed by the owner or operator and approved by the executive director that demonstrates that the restoration table value is representative of baseline quality.

(2) Achievement of restoration. Achievement of restoration shall be determined using one of the following methods:

(A) when all mean concentration values from groundwater samples from all baseline wells for a restoration parameter are equal to or below (or, in the case of pH, within an established range) the restoration table value for that parameter, then restoration for that parameter will be assumed to have occurred. Complete restoration will be assumed to have occurred when mean concentration values from all samples from all baseline wells for all restoration parameters are equal to or below (or, in the case of pH, within an established range) each respective restoration table value; or

(B) a statistical analysis of information from groundwater samples from baseline wells proposed by the owner or operator and approved by the executive director that demonstrates that the groundwater quality is representative of the restoration table values.

(b) Mining completion. When the mining of a permit or production area is completed, the permittee shall notify the appropriate commission regional office and the executive director and shall proceed to reestablish groundwater quality in the affected permit or production area aquifers in accordance with the requirements of subsection (a) of this section. Restoration efforts shall begin as soon as practicable but no later than 30 days after mining is completed in a particular production area. The executive director, subject to commission approval, may grant a variance from the 30-day period for good cause shown.

(c) Timetable. Aquifer restoration, for each permit or production area, shall be accomplished in accordance with the timetable specified in the currently approved mine plan, unless otherwise authorized by the commission. Authorization for expansion of mining into new production areas may be contingent upon achieving restoration progress in previously mined production areas within the schedule set forth in the mine plan. The commission may amend the permit to allow an extension of the time to complete restoration after considering the following factors:

(1) efforts made to achieve restoration by the original date in the mine plan;

(2) technology available to restore groundwater for particular parameters;

(3) the ability of existing technology to restore groundwater to baseline quality in the area;

(4) the cost of achieving restoration by a particular method;

(5) the amount of water which would be used or has been used to achieve restoration;

(6) the need to make use of the affected aquifer; and

(7) complaints from persons affected by the permitted activity.

(d) Reports. Beginning six months after the date of initiation of restoration of a permit or production area, as defined in the mine plan, and until receiving written acknowledgment from the executive director that restoration for the production areas has been accomplished, the operator shall provide to the executive director semi-annual restoration progress reports. This report shall contain the following information:

(1) all analytical data generated to monitor restoration progress for certain parameters, as approved by the executive director, during the previous six months;

(2) graphs of analysis for each restoration parameter for each baseline well or for each restoration parameter that has been amended in accordance with subsection (g) of this section;

(3) the volume of fluids injected and produced;

(4) the volume of fluids disposed;

(5) water level measurements for all baseline and monitor wells, and for any other wells being monitored;

(6) a potentiometric map for the area of the production area authorization, based on the most recent water level measurements; and

(7) a summary of the progress achieved towards aquifer restoration.

(e) Restoration table values achieved. When the permittee determines that constituents in the aquifer have been restored to the values in the Restoration Table, the restoration shall be demonstrated by stability sampling in accordance with subsection (f) of this section.

(f) Stability sampling. The permittee shall obtain stability samples and complete an analysis for all parameters listed in the restoration table from all production area baseline wells. Stability sampling may commence 60 days after cessation of restoration operations. Stability samples shall be conducted at a minimum of 30-day intervals for a minimum of three sample sets and reported to the executive director. The permittee shall notify the executive director at least two weeks in advance of sample dates to provide the opportunity for splitting samples and for selecting additional wells for sampling, if desired. To ensure water quality has stabilized, a period of one calendar year must elapse between cessation of restoration operations and the final set of stability samples. Upon acknowledgment in writing by the executive director confirming achievement of final restoration, the permittee shall accomplish closure of the area in accordance with §331.86 of this title (relating to Closure).

(g) Amendment of restoration table or range table values. After an appropriate effort has been made to achieve restoration in accordance with the requirements of subsection (a) of this section, the permittee may cease restoration operations, reduce bleed and request that the restoration table be amended. With the request for amendment of the restoration table values, the permittee shall submit stability sampling results in accordance with subsection (f) of this section. The permittee shall notify the executive director of his or her intent to cease restoration operations and reduce the bleed 30 days prior to implementing these steps. If any restoration table value for any parameter listed in the restoration table will exceed the maximum value for the respective parameter in the permit range table, the permittee must submit an application for a major amendment of the permit range table.

(1) The commission shall prioritize the conservation of regional groundwater water supplies when considering an application to amend a restoration table value or range table. In determining whether the restoration table or range table should be amended, the commission will consider the following items addressed in the request:

(A) uses for which the groundwater in the production area was suitable at baseline water quality levels;

(B) actual existing use of groundwater in the production area prior to and during mining;

(C) potential future use of groundwater of baseline quality and of proposed restoration quality;

(D) the effort made by the permittee to restore the groundwater to baseline;

(E) technology available to restore groundwater for particular parameters;

(F) the ability of existing technology to restore groundwater to baseline quality in the area under consideration;

(G) the cost of further restoration efforts;

(H) the consumption of groundwater resources during further restoration; and

(I) the harmful effects of levels of particular parameter.

(2) The commission may amend the restoration table or range table if it finds that:

(A) reasonable restoration efforts have been undertaken, giving consideration to the factors listed in paragraph (1) of this subsection;

(B) the values for the parameters describing water quality have stabilized for a period of one year;

(C) the formation water present in the exempted portion of the aquifer would be suitable for any use to which it was reasonably suited prior to mining; and

(D) further restoration efforts would consume energy, water, or other natural resources of the state without providing a corresponding benefit to the state.

(3) If the restoration table is amended, stability sampling shall be repeated and conducted as described in subsection (f) of this section, except that only the parameters that were amended in accordance with this subsection will be sampled and a period of two calendar years must elapse between cessation of restoration operations and the final set of stability samples unless the permittee can demonstrate through modeling or other means that a period of less than two years is appropriate for a demonstration of stability.

(4) If the request for an amendment of the restoration table or range table values is not granted, the permittee shall restart restoration efforts.

§331.108. Opportunity for a Contested Case Hearing on a Production Area Authorization Application.

(a) An application for a new production area authorization or an amendment to a production area authorization is not subject to opportunity for a contested case hearing if:

(1) the authorization is for a production area within the boundary of the permit under which the authorization will be issued and the permit includes, for each production area addressed in the application, a range table with values established in accordance with the requirements in §305.49(a)(10) of this title (relating to Additional Contents of Application for an Injection Well Permit);

(2) the application includes, for each production area addressed in the application, a restoration table with restoration parameter values that do not exceed the high values for the respective parameters in the permit range table; [~~and~~]

(3) the application is for a production area within the boundary of the permit under which the [~~proposed~~] authorization will be issued, and the application meets the requirements at §331.104(a) - (d) of this title (relating to Establishment of Baseline and Control Parameters for Excursion Detection) regarding baseline wells; and [~~or~~]

(4) not later than 30 days after the date the executive director determines the application to be administratively complete, the Notice of Receipt of Application and Intent to Obtain Permit is mailed to: [~~the application requests authorization for a new, and subsequent, production area within the permit boundary of a permit after the first production area authorization has been issued for a production area within the permit boundary.~~]

(A) the owners of the surface of:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located;

(B) the owners of mineral rights underlying:

(i) the tract of land on which the existing or proposed production area is or will be located; and

(ii) the tracts of land adjacent to the tract of land on which the existing or proposed production area is or will be located; and

(C) any groundwater conservation district established in the county in which the existing or proposed production area is or will be located.

(b) A restoration table may not be amended to exceed a respective value of the permit range table. [~~An application to amend a restoration table included in an issued production area authorization is not subject to opportunity for a contested case hearing if the restoration parameter values in the proposed amended restoration table do not exceed the respective values in the permit range table included in the permit under which the production area authorization was issued.~~]

[~~(c) An application to amend a restoration table to increase any restoration table value included in an issued production area authorization is subject to opportunity for a contested case hearing if the permit under which the production area authorization was issued does not include a permit range table, established in accordance with the requirements of §305.49(a)(10) 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 October 24, 2025.

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Texas Commission on Environmental Quality
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