

Rules Adopted at the November 15, 2010 Commission Meeting

Subchapter R.

**§§535.201, 535.206, 535.209,
535.212 - 535.218, 535.221,
535.222, 535.226**

The Texas Real Estate Commission (TREC or the commission) adopts new §535.201, regarding Definitions; amendments to §535.206, regarding The Texas Real Estate Inspector Committee; new §535.209, regarding Examinations; new §535.212, regarding Education and Experience Requirements for a License; new §535.213, regarding Approval of Courses in Real Estate Inspection; new §535.214, regarding Providers of Real Estate Inspections Courses; amendments to §535.215, regarding Inactive Inspector Status; amendments to §535.216, regarding Renewal of License or Registration; new §535.217, regarding Contact Information; amendments to §535.218, regarding Continuing Education, amendments to §535.221, regarding Advertisements; amendments to §535.222, regarding Inspection Reports; and amendments to §535.226, regarding Sponsorship of Apprentice Inspectors and Real Estate Inspectors. The amendments and new rules are adopted with changes to the proposed text of §§535.212 and 535.218 as published in the September 10, 2010, issue of the *Texas Register* (35 TexReg 8275). The changes to the proposed text of §535.212 establish an effective date of September 1, 2011, for the apportioning of pre-licensure hours, and the change to §535.218 establishes an effective date of September 1, 2011, for the 6-hour Standards of Practice/Legal/Ethics Update course. The revision to the rules as adopted do not change the nature or scope so much that they could be deemed different rules. The rules as adopted do not affect individuals other than those contemplated by the rules as proposed. The rules as adopted do not impose more onerous requirements than the proposed version and do not materially alter the issues raised in the proposed rules. Changes in the adopted rules will give applicants, licensees, and education

providers additional time to accommodate these changes through modified course offerings.

§§535.201, 535.206, 535.213-.217, 535.221, 535.222, and 535.226 are amended without changes and will not be republished.

The new rules and amendments to these sections reflect a non-substantive reorganization of 22 TAC Chapter 535, Subchapter R, to improve readability of the rules based on changes identified through the agency's rule review process. Other provisions throughout the rules modify language to allow the agency and its licensees to better take advantage of opportunities for online license management, as well as electronic delivery of notices and license certificates. In addition to these non-substantive amendments, a number of substantive changes are being adopted.

New §535.201, Definitions, consolidates definitions related to regulation of inspectors, including code organization and trade association, and introduces a Texas Standards of Practice/Legal/Ethics Update course.

Amendments to §535.206, The Texas Real Estate Inspector Committee, clarify that a member only serves until a successor has been appointed if the member completes his or her term and would make other non-substantive changes to the section.

New §535.209, Examinations, moves the examination provisions from §535.214 (proposed for repeal) and lowers the minimum passing score on the professional inspector examination from 80% to 75%.

New §535.212, Education and Experience Requirements for a License, allocates the numbers of hours of education required by Chapter 1102 for licensure as a real estate inspector or professional inspector among the core subject matter areas. This change addresses both the hours required under the traditional three-tier method of licensure, as well as the hours required for the education/experience substitute method.

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New §535.213, Approval of Courses in Real Estate Inspection, increases the maximum amount of classroom course time that may be spent on field work from 10% to 50% and defines a core course area of "legal/ethics."

New §535.214, Providers of Real Estate Inspection Courses, incorporates content from current §535.212 regarding the requirements for providers of courses in real estate inspection.

Amendments to §535.215, Inactive Inspector Status, reflect a change in requirements regarding inactive and active status to better take advantage of opportunities for online license management.

Amendments to §535.216 reflect the commission's move toward online filing of applications and related forms, as well as electronic delivery of notices. Section 535.216 changes the name from "Renewal of License or Registration" to "Renewal of License".

New §535.217, Contact Information, requires that licensees provide the commission with a phone number and email address in addition to the permanent mailing address that is currently required, and further requires licensees to keep the commission apprised of any changes to this contact information.

Amendments to §535.218, Continuing Education, require all real estate inspectors and professional inspectors to take a six-hour Texas Standards of Practice/Legal/Ethics Update course in order to renew a license. This requirement does not increase the total number of hours required to renew but will be counted toward the 32-hour requirement to renew a 2-year license. This requirement

Amendments to §535.221, Advertisements, explicitly brings electronic social media used for the purpose of gaining business into the definition of "advertisements" and clarifies how the rules relating to inspector advertising apply to these types of advertisements and how inspectors must identify themselves and provide their license numbers on such advertisements.

Amendments to §535.222, Inspection Reports, clarify that the names of each inspector who participated in performing an inspection, as well as all supervising real estate inspectors and/or sponsoring professional inspectors, must appear on inspection reports. The amendments also eliminate the signature requirement on inspection reports and require inspectors to deliver reports within three days unless otherwise agreed to in writing.

Amendments to §535.226, Sponsorship of Apprentice Inspectors and Real Estate Inspectors, reflect the move toward online license management and also eliminate language requiring signatures on inspection reports.

The reasoned justification for the amendments and new rules is greater availability of members willing to serve on the Inspector Committee; greater availability of inspectors with a broader base of understanding of inspection principles; increased clarity regarding the requirements for inspector advertising, report identification, and delivery of reports; and improved efficiency within the agency.

The Commission has received four comments regarding the amendments as proposed. Regarding §535.209, three commenters wrote in opposition to the reduction in the minimum passing score on the professional inspector examination, stating that reducing the minimum passing score from 80% to 75% constituted a "dumbing down" of the profession and that such a reduction would allow more inspectors and "incapable people" into the profession. The Commission respectfully disagrees, as the current passage rate of below 40% is substantially lower than passage rates on most other occupational licensing exams; lowering the minimum score to 75% is expected to bring the passage rate to approximately 60-65%, which is more consistent with passage rates of other occupational licensing examinations. One of the commenters also stated his opposition to the proposed requirement that all real estate inspectors and professional inspectors take six hours of Standards of

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Practice/Legal/Ethics Update, applicable toward the 32-hour continuing education requirement, for renewal. This commenter acknowledged the need for such education but objected to the six-hour requirement and suggested that the Commission (a) create a free course that inspectors would be required to take in addition to the 32-hour requirement or (b) require licensees to sign a certification upon each renewal stating that they have read and are familiar with current Standards of Practice, laws, and rules. The Commission appreciates this commenter's position and suggestions but does not have authority to require continuing education beyond the 32 hours (16 per year) required for renewal and respectfully disagrees that signing a statement upon renewal is as effective as requiring coursework to ensure that inspectors are duly educated about the Standards of Practice and laws and rules applicable to them. The fourth commenter expressed concern that requiring every inspector who participated in an inspection to sign the report would cause confusion and could result in the demise of multi-inspection teams and, in turn, the benefits thereof. The commission believes that the value of clearly stating who participated in an inspection outweighs any potential drawbacks.

The amendments and new rules are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of Chapter 1102 to ensure compliance with the provisions of the chapter.

The statute affected by this adoption is Texas Occupations Code, Chapter 1102. No other statute, code or article is affected by the adoption.

§535.201. Definitions. The following definitions shall apply to this subchapter.

(1) Code organization--A non-profit organization whose primary mission is to develop and advocate scientifically-based codes

and standards relating to one or more of the systems found in an improvement to real estate.

(2) Texas Standards of Practice/Legal/Ethics Update--Course addressing developments related to the inspection field, including the requirements of Chapter 1102, Rules, case law, and agency enforcement actions.

(3) Trade association--A cooperative, voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

§535.206. The Texas Real Estate Inspector Committee.

(a) The functions of the committee are as prescribed by Chapter 1102.

(b) The committee consists of nine members appointed by the commission as follows:

(1) six members who have been engaged in the practice of real estate inspecting as professional inspectors for at least five years before the member's appointment and who are actively engaged in that practice; and

(2) Three members who represent the public, who are not registered, certified, or licensed by an occupational or regulatory agency in the real estate industry.

(c) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(d) Members of the committee serve staggered six-year terms, with the terms of two inspector members and one public member expiring on February 1 of each odd-numbered year. Initial appointments may be made for terms shorter than six years in order to establish staggered terms. A member whose term has expired holds office until the member's successor is appointed. If a vacancy occurs during a member's term, the commission shall appoint a person to fill the unexpired term.

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(e) At a regular meeting in February of each year, the committee shall elect from its members a presiding officer, assistant presiding officer, and secretary.

(f) The commission may remove a committee member if the member:

(1) does not have the qualifications required by subsection (b)(1) of this section;

(2) cannot discharge the member's duties for a substantial part of the member's term;

(3) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during each calendar year, unless the absence is excused by majority vote of the committee; or

(4) violates Chapter 1102.

(g) If the administrator of the commission has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the commission that the potential ground exists.

(h) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(i) The committee may meet at the call of a majority of its members. The committee shall meet at the call of the commission.

(j) A quorum of the committee consists of five members.

(k) The committee shall conduct its meetings in substantial compliance with Robert's Rules of Order.

(l) The secretary of the committee, or in the secretary's absence, a member designated by the chairman, shall prepare written minutes of each meeting and submit the minutes to the committee for approval and for filing with the commission.

(m) The committee shall submit semiannual reports to the commission on or before March 1 and September 1 of each year detailing the performance of the committee. The commission may require the report to be submitted on a form approved by the commission for that purpose. The committee may submit its written

recommendations concerning the licensing and regulation of real estate inspectors to the commission at any time the committee deems appropriate. If the commission submits a rule to the committee for development, the chairman of the committee or the chairman's designate shall report to the commission after each meeting at which the proposed rule is discussed on the committee's consideration of the rule.

(n) The committee is automatically abolished on September 1, 2019 unless the commission subsequently establishes a different date.

§535.209.Examinations.

(a) There shall be an examination for a real estate inspector license and for a professional inspector license. Questions shall be used which will measure competency in the subject areas required for a license by Chapter 1102, and which will demonstrate an awareness of its provisions relating to inspectors. Each real estate inspector applicant must achieve a score of at least 70% on the examination. Each professional inspector applicant must achieve a score of at least 75% on the examination.

(b) Except as otherwise required by Chapter 1102 or this section, examinations shall be conducted as provided by §535.61 of this title (relating to Examinations).

§535.212.Education and Experience Requirements for a License.

(a) To become licensed as a real estate inspector or professional inspector, a person must satisfy:

(1) the education and experience requirements outlined in §1102.108 and §1102.109 of Chapter 1102; or

(2) the substitute education and experience requirements established by the commission pursuant to §1102.111.

(b) Effective September 1, 2011, a person may satisfy the 90-hour education requirement for licensure as a real estate inspector pursuant to subsection (a)(1) of this section by completing the following coursework:

(1) 10 hours in foundations;

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- (2) 8 hours in framing;
- (3) 10 hours in building enclosure;
- (4) 10 hours in roof systems;
- (5) 8 hours in plumbing systems;
- (6) 10 hours in electrical systems;
- (7) 10 hours in heating, ventilation, and air conditioning systems;
- (8) 8 hours in appliances;
- (9) 4 hours in Texas Standards of Practice;
- (10) 4 hours in Texas Standard Report Form/Report Writing; and
- (11) 8 hours in Texas Legal/Ethics.

(c) Effective September 1, 2011, a person may satisfy the 128-hour education requirement for licensure as a professional inspector pursuant to subsection (a)(1) of this section by completing the following coursework:

- (1) the courses required for licensure as a real estate inspector in subsection (b) of this section;
- (2) 8 additional hours in Texas Standard Report Form/Report Writing;
- (3) 6 hours in Texas Standards of Practice/Legal/Ethics Update; and
- (4) 24 additional hours in any core inspection subject(s).

(d) For the purpose of measuring the number of inspections required to receive a license or to sponsor apprentice inspectors or real estate inspectors, the commission considers an improvement to real property to be any unit capable of being separately rented, leased or sold. Subject to the following restrictions, an inspection of an improvement to real property that includes the structural and equipment/systems of the unit constitutes a single inspection.

(1) Half credit will be given for an inspection limited to structural components only or to equipment/systems only.

(2) No more than 80% of the inspections for which experience credit is given may be

limited to structural components only or to equipment/systems components only.

(3) A report addressing two or more improvements is considered a single inspection.

(4) The commission may not give experience credit to the same applicant or professional inspector for more than three complete or six partial inspections per day. No more than three applicants may receive credit for the inspection of the same unit within a 30 day period, and no more than three apprentice inspectors may receive credit for an inspection of the same unit on the same day.

(e) For the purpose of satisfying any requirement that an applicant hold a license for a period of time in order to be eligible for a license as a real estate inspector or professional inspector, the commission shall not give credit for periods in which a license was on inactive status. An applicant for a real estate inspector license must have been licensed on active status for a total of at least three months within the 12 month period prior to the filing of the application. An applicant for a professional inspector license must have been licensed on active status for a total of at least 12 months within the 24 month period prior to the filing of the application.

(f) Substitute requirements for a real estate inspector license. A person may satisfy the substitute education and experience requirements to become licensed as a real estate inspector as follows:

(1) A person who does not have two years of experience as an architect, engineer, or engineer-in-training must:

(A) complete a total of 120 hours of core inspection coursework. Effective September 1, 2011, these hours must include the following:

- (i) 90 hours of coursework as outlined in subsection (b) of this section;
- (ii) 8 additional hours in Texas Standard Report Form/Report Writing;
- (iii) 6 hours in Texas Standards of Practice/Legal/Ethics Update; and
- (iv) 16 additional hours in any core inspection subject(s); and

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(B) satisfy the substitute experience requirement by:

(i) completing 60 hours of an approved interactive experience training module presented by a licensed professional inspector and submitting a certificate of completion;

(ii) accompanying a licensed professional inspector eligible to sponsor for 60 hours of inspections and submitting a letter from the professional inspector certifying that the applicant attended 60 hours of such training; or

(iii) having three years of personal experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real property and providing two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.

(2) A person who has at least two years of experience as an active practicing licensed or registered architect, professional engineer, or engineer-in-training must:

(A) complete a total of 104 hours of core inspection coursework. Effective September 1, 2011, these hours must include the following:

(i) 90 hours of coursework as outlined in subsection (b) of this section;

(ii) 8 additional hours in Texas Standard Report Form/Report Writing; and

(iii) 6 hours in Texas Standards of Practice/Legal/Ethics Update; and

(B) submit a license history from the regulatory agency that issued the license or registration documenting the period of practice as a licensed or registered architect, professional engineer, or engineer-in-training.

(g) Substitute requirements for a professional inspector license. A person may satisfy the substitute education and experience requirements to become licensed as a professional inspector as follows:

(1) A person who does not have three years of experience as an architect, engineer, or engineer-in-training must:

(A) complete a total of 328 hours of core inspection coursework. Effective September 1, 2011, these hours must include the following:

(i) 128 hours of coursework as outlined in subsection (c) of this section;

(ii) 30 additional hours in foundations;

(iii) 30 additional hours in framing;

(iv) 12 additional hours in building enclosure;

(v) 25 additional hours in roof systems;

(vi) 25 additional hours in plumbing systems;

(vii) 25 additional hours in electrical systems;

(viii) 25 additional hours in heating, ventilation, and air conditioning systems;

(ix) 6 additional hours in appliances;

(x) 8 additional hours in Standards of Practice/Legal/Ethics;

(xi) 8 additional hours in Standard Report Form/Report Writing; and

(xii) 6 additional hours in any core inspection subject(s); and

(B) satisfy the substitute experience requirement by:

(i) completing 120 hours of an approved interactive experience training module presented by a licensed professional inspector and submitting a certificate of completion;

(ii) accompanying a licensed professional inspector eligible to sponsor for 120 hours of inspections and submitting a letter from the professional inspector certifying that the applicant attended 120 hours of such training; or

(iii) having five years of personal experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real

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property, and providing two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.

(2) A person who has at least three years of experience as an active practicing licensed or registered architect, professional engineer, or engineer-in-training must:

(A) complete a total of 142 hours of core inspection coursework. Effective September 1, 2011, these hours must include the following:

(i) 128 hours of coursework as outlined in subsection (c) of this section;

(ii) 8 additional hours in Texas Standard Report Form/Report Writing; and

(iii) 6 hours in Texas Standards of Practice/Legal/Ethics Update; and

(B) submit a license history from the regulatory agency that issued the license or registration documenting the period of practice as a licensed or registered architect, professional engineer, or engineer-in-training.

(h) Not more than two persons may accompany a licensed professional inspector on any inspection used to meet the experience requirement of §1102.111(a) of Chapter 1102.

§535.213.Approval of Courses in Real Estate Inspection.

(a) To be accepted for inspector licensing, a course must meet each of the following requirements.

(1) The course was devoted to a subject listed in §1102.001(5) of Chapter 1102 or this section; provided, however, that the commission will not accept more than 30 hours of course credit for inspection-related business, legal, report writing or ethics courses.

(2) The student was present in the classroom for the hours of credit granted by the course provider or completed makeup in accordance with the requirements of the provider or by applicable commission rule.

(3) Successful completion of a final examination or other form of final evaluation

was a requirement for receiving credit from the provider.

(4) The daily course presentation did not exceed ten hours.

(5) The course was offered by a provider accredited by the commission to offer inspection courses or exempt from the requirement to be accredited by the commission.

(b) A classroom course may include up to 50% of total course time for appropriate field work relevant to the course topic. Field work may not be included as part of correspondence or alternative delivery courses.

(c) Except as provided to the contrary by this section, the review and acceptance of correspondence courses or courses offered by alternative delivery systems such as computers will be conducted in the manner prescribed by §535.62 of this title (relating to Acceptable Courses of Study). Correspondence courses are acceptable only if offered by or in association with an accredited college or university.

(d) Providers wishing to obtain prior approval of a classroom course shall submit the following items to the commission:

(1) a course description, including the number of hours of credit to be awarded;

(2) a timed course outline;

(3) a copy of any textbook, course outline, syllabus or other written course material provided to students;

(4) a cross reference to the course material which demonstrates in a manner that is satisfactory to the commission where the required subject matter is covered in the course; and

(5) a copy of the written final examination which measures a student's mastery of the course.

(e) The following subjects shall be considered core real estate inspection courses:

(1) Foundations, which shall include the following topics:

(A) site analysis/location;

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- (B) grading;
 - (C) foundations;
 - (D) flat work;
 - (E) material;
 - (F) foundation walls;
 - (G) foundation drainage;
 - (H) foundation waterproofing and damp proofing;
 - (I) columns; and
 - (J) under floor space.
- (2) Framing, which shall include the following topics:
- (A) flashing;
 - (B) wood frame - stick/balloon;
 - (C) roof structure - rafters/trusses;
 - (D) floor structure;
 - (E) porches/decks/steps/landings/balconies;
 - (F) doors;
 - (G) ceilings;
 - (H) interior walls;
 - (I) stairways;
 - (J) guardrails/handrails/balusters;
 - (K) fireplace/chimney;
 - (L) sills/columns/beams/joist/sub-flooring;
 - (M) wall systems/structure - headers;
 - (N) rammed earth;
 - (O) straw bale;
 - (P) ICF;
 - (Q) panelized;
 - (R) masonry;
 - (S) wood I joist;
 - (T) roof sheathing;
 - (U) wood wall;
 - (V) steel wall;
 - (W) wood structural panel; and
- (X) conventional concrete.
- (3) Building Enclosure, which shall include the following topics:
- (A) review of foundation and roofing relation;
 - (B) review of flashing;
 - (C) cladding;
 - (D) windows/glazing;
 - (E) weather barriers;
 - (F) vapor barriers;
 - (G) insulation;
 - (H) energy codes; and
 - (I) ingress/egress.
- (4) Roof Systems, which shall include the following topics:
- (A) review - rafters, roof joist, ceiling joist, collar ties, knee walls, purling, trusses, wood I joist, roof sheathing, steel framing;
 - (B) roof water control;
 - (C) skylights;
 - (D) flashing;
 - (E) ventilation/non-ventilation;
 - (F) attic access;
 - (G) re-roofing;
 - (H) slopes - step roof/low slope/near flat;
 - (I) materials - asphalt, fiberglass, wood shake, wood shingle, slate, clay tile, concrete tile, fiber cement (asbestos cement, mineral cement), metal, roll, build up, modified bitumen, synthetic rubber (EPDM), plastic (PVC); and
 - (J) valleys.
- (5) Plumbing Systems, which shall include the following topics:
- (A) water supply systems;
 - (B) fixtures;
 - (C) drains;
 - (D) vents;
 - (E) water heaters (gas and electric);

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(F) gas lines; and

(G) hydro-therapy equipment.

(6) Electrical Systems, which shall include the following topics:

(A) general requirements, equipment location and clearances;

(B) electrical definitions;

(C) services;

(D) branch circuit and feeder requirements;

(E) wiring methods;

(F) power and lights distribution;

(G) devices and light fixtures; and

(H) swimming pool.

(7) HVAC Systems, which shall include the following topics:

(A) heating;

(B) ventilation;

(C) air conditioning; and

(D) evaporative coolers.

(8) Appliances, which shall include the following topics:

(A) dishwasher;

(B) food waste disposer;

(C) kitchen exhaust hood;

(D) range, cooktop, and ovens (electric and gas);

(E) microwave cooking equipment;

(F) trash compactor;

(G) bathroom exhaust fan and heater;

(H) whole house vacuum systems;

(I) garage door operator;

(J) doorbell and chimes; and

(K) dryer vents.

(9) Texas Standards of Practice, which shall include the following topics:

(A) review of general principles and specific Texas practice standards;

(B) inspection guidelines for structural systems;

(C) inspection guidelines for electrical systems;

(D) inspection guidelines for heating, ventilation, and air conditioning systems;

(E) inspection guidelines for plumbing systems;

(F) inspection guidelines for appliances; and

(G) inspection guidelines for optional systems.

(10) Legal/Ethics, which shall include the following topics:

(A) Chapter 1102;

(B) commission rules related to inspectors;

(C) agency enforcement action relating to inspectors; and

(D) related case law.

(11) Texas Standard Report Form/Report Writing, which shall include the following topics:

(A) use of the required inspection report form;

(B) allowed reproductions;

(C) allowed changes;

(D) exceptions from use of the form;

(E) review of typical comments for each heading in the report; and

(F) review of generally accepted technical writing techniques.

(12) Other approved courses as they relate to real estate inspections, which shall include one or more of the following topics:

(A) Environmental Protection Agency;

(B) Consumer Product Safety Commission; and

(C) general business practices.

(f) A course approved to satisfy a specific subject matter requirement must address each

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part of the subject as described by this subchapter.

(g) A course that combines more than one subject into a composite course may be approved by the commission to satisfy core course education requirements; however, composite courses will not satisfy the requirements for coursework in specific subject areas unless they are approved for a specific number of hours for each subject area.

(h) An applicant may not take the same course more than once for credit toward the education requirements for a license; however, a course for which credit was granted toward a lower license may be counted again toward the requirements for a higher license.

(i) An applicant will not receive credit for more than one course with substantially the same course content within a two year period.

§535.214.Providers of Real Estate Inspection Courses.

(a) Except as provided by this section, the accreditation and regulation of schools and courses of study in real estate inspection and the approval of instructors will be conducted as required for real estate schools by §§535.63 - 535.67 of this title.

(b) A person applying for accreditation of a real estate inspection school shall use application forms approved by the commission. All courses must be approved by the commission prior to being offered for credit. A school accredited by the commission to offer real estate courses is not required to apply for accreditation under this section to offer real estate inspection courses, provided all courses offered by the school have been approved by the commission. The commission may submit proposed courses to the Texas Real Estate Inspector Committee for review and recommendation.

(c) An entity is not required to be accredited by the commission in order to offer inspection courses if it is:

(1) a school accredited by an inspector regulatory agency of another state;

(2) a college or university accredited by a regional accrediting association, such as the Commission on Colleges of the Southern Association of Colleges and Schools, or its equivalent, or by a recognized national or international accrediting body;

(3) a unit of federal, state or local government;

(4) a nationally recognized building, electrical, plumbing, mechanical or fire code organization;

(5) a professional trade association in the inspection field or in a related technical field; or

(6) an entity whose courses are approved and regulated by an agency of this state.

(d) Providers exempt from the requirement to be accredited by the commission may submit courses to the commission for preapproval. If a course is offered without first being submitted for preapproval, the commission will evaluate the course at such time as a student submits the course to the commission for credit and may determine that the course does not qualify for credit or qualifies for fewer than the full number of hours of credit.

§535.215.Inactive Inspector Status.

(a) For the purposes of this section, an "inactive" inspector is a licensed professional inspector, real estate inspector, or apprentice inspector who is not authorized by law to engage in the business of performing real estate inspections as defined by Chapter 1102, and who has been placed on inactive status by the commission for any of the following reasons:

(1) the written request of the inspector to be placed on inactive status;

(2) termination of sponsorship by a professional inspector;

(3) the death of the inspector's sponsoring professional inspector;

(4) the failure of the licensee to satisfy continuing education requirements for an active license;

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(5) the expiration, suspension, or revocation of the license of the inspector's sponsoring professional inspector;

(6) the failure of the licensee to provide to the commission proof of professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102; or

(7) the expiration or non-renewal of the inspector's professional liability insurance or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102.

(b) To be placed on inactive status by request, an inspector must do the following:

(1) file a request for inactive status or submit a letter containing the inspector's name, license number and current mailing address; and

(2) if the inspector is a licensed professional inspector, confirm in writing that the inspector has, at least 30 days prior to filing the request for inactive status, given any real estate inspectors or apprentice real estate inspectors sponsored by the inspector written notice that the inspector will no longer be their sponsor.

(c) A professional inspector who has been placed on inactive status may apply to the commission for return to active status by filing a request online or on a form approved by the commission and submitting any required fee. A professional inspector may apply on a form approved by the commission to sponsor an apprentice inspector or real estate inspector who has been on inactive status. The commission may not return an inspector to active status or issue a license certificate to the inspector unless the inspector has completed within one year prior to the filing the request for return to active status any applicable continuing education courses required for renewal of the type of license held by the inspector or satisfied the continuing education requirements in order to obtain the current license.

(d) An inspector who applies to renew a license and pays the applicable fee but who fails to complete any continuing education required by the Act as a condition of license renewal shall be placed on inactive status by

the commission. The inspector must comply with the requirements of this section in order to return to active status.

(e) If a professional inspector terminates the sponsorship of an apprentice real estate inspector or real estate inspector, the license of the apprentice inspector or real estate inspector becomes inactive. The apprentice real estate inspector or real estate inspector must be sponsored by a professional inspector in order to return to active status.

(f) Inactive inspectors may not perform inspections. Performance of inspections while on inactive status is grounds for disciplinary action against the inactive licensee. An professional inspector who has been placed on inactive status may not return to practice or sponsor apprentices or inspectors until the professional inspector has completed applicable continuing education requirements and, if the inspector was placed on inactive status at the inspector's own request, applied to the commission for return to active status and paid the applicable fee for the filing. An apprentice inspector or real estate inspector who has been placed on inactive status may return to practice if the inspector has completed applicable continuing education requirements, and the inspector's sponsoring professional inspector has requested that the apprentice inspector or real estate inspector be returned to active status under the professional inspector's sponsorship in accordance with the provisions of this section. It is a violation of this section and grounds for disciplinary action against a professional inspector for the professional inspector to permit an inactive apprentice inspector or an inactive real estate inspector to perform inspections in association with, or on behalf of, the professional inspector.

§535.216. Renewal of License.

(a) A person licensed by the commission under Chapter 1102 may renew the license by timely filing the prescribed application for renewal, paying the appropriate fee to the commission and satisfying applicable continuing education requirements as required by Chapter 1102, and by §535.218 of this title (relating to Continuing Education), and providing to the

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commission proof of professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, with a minimum limit of \$100,000 per occurrence as required by §535.211 of this title (relating to Professional Liability Insurance) and §1102.203 of Chapter 1102.

(b) A licensee also may renew an unexpired license by accessing the commission's Internet web site, entering the required information on the renewal application form, satisfying applicable education and professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102 requirements and paying the appropriate fee in accordance with the instructions provided at the site by the commission.

(c) The commission shall send a renewal notice to each licensee at least 90 days prior to the expiration of the license. An apprentice inspector or a real estate inspector must be sponsored by a licensed professional inspector in order to renew a license on an active status. It is the responsibility of the licensee to apply for renewal, and failure to receive a renewal notice does not relieve the licensee of the responsibility of applying for renewal.

(d) A licensee shall provide information requested by the commission in connection with an application to renew a license within 30 days after the commission requests the information. Failure to provide information requested by the commission in connection with a renewal application within the required time is grounds for disciplinary action under §1101.656 of the Act .

(e) An inspector licensed on active status who timely files a renewal application together with the applicable fee, evidence of completion of any required continuing education courses, and proof of professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, may continue to practice prior to receiving a new license certificate from the commission. If the license has expired and the licensee files an application to renew the license, the licensee

may not practice until the new certificate is received.

§535.217.Contact Information. Each licensee shall furnish a permanent mailing address, phone number, and email address to the commission and shall report all subsequent changes within 10 days after a change of any of the listed contact information. If a licensee fails to update a permanent mailing address, the last known mailing address for the licensee will be deemed to be the licensee's permanent mailing address.

§535.218.Continuing Education.

(a) Effective September 1, 2011, continuing education for renewal of a real estate inspector or professional inspector license must include six hours of Texas Standards of Practice/Legal/Ethics Update.

(b) Except as provided by this section, real estate inspection courses submitted by professional inspectors or real estate inspectors to satisfy the requirements of §1102.205 of Chapter 1102 for continuing education must qualify for core inspection credit under §535.212 of this title (relating to Education and Experience Requirements for a License).

(c) In addition to the core real estate inspection courses defined in §1102.001(5) of Chapter 1102 and §535.212 of this title, the commission also will accept a course related to wood-destroying insects, radon, asbestos, lead, or other hazardous substances to satisfy continuing education requirements.

(d) Courses submitted for continuing education credit must be successfully completed during the term of the current license. The commission may not grant continuing education credit twice for the same course taken by a licensee within a 2-year period.

(e) Other than for correspondence courses or courses offered by alternative delivery methods, such as by computer, completion of a final examination is not required for a licensee to obtain continuing education credit for a course.

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(f) A professional inspector or real estate inspector who fails to renew a license that is subject to continuing education requirements and who files an application for renewal within one year after the previous license has expired must provide evidence satisfactory to the commission that the applicant has completed any continuing education that would have been required for timely renewal of the previous license. Continuing education courses submitted toward renewal of a license must have been completed during the license period.

(g) Licensed professional inspectors, real estate inspectors and apprentice inspectors may renew a license on inactive status. Inspectors are not required to complete continuing education courses as a condition of renewing a license on inactive status but must satisfy continuing education requirements before returning to active status.

(h) Providers may request continuing education credit be given to instructors of core real estate inspection courses subject to the following guidelines.

(1) The instructors may receive credit for only those portions of the course which they teach.

(2) The instructors may receive full course credit by attending all of the remainder of the course.

(i) The commission will not grant partial credit to an inspector who attends a portion of a course.

§535.221. Advertisements.

(a) For the purposes of this section, advertisements are all communications created or caused to be created by a licensed inspector for the purpose of inducing or attempting to induce a member of the public to use the services of the inspector, including but not limited to the following types of communications when disseminated for this purpose: inspection reports, business cards, invoices, signs, brochures, email, the Internet, electronic transmissions, text messages, and purchased telephone directory displays and advertising by newspaper, radio and television.

(b) Advertisements by a person licensed as an inspector must contain the name or assumed business name of the licensee. The advertisements must also contain the license number of the person. If the person is licensed as a real estate inspector or as an apprentice inspector, the advertisements must also contain the following:

(1) the name or assumed name of the person's sponsoring professional inspector; and

(2) a statement indicating that the person is sponsored by that professional inspector.

(c) A licensed professional inspector, real estate inspector or apprentice inspector shall immediately notify the commission in writing of the licensee's use of an assumed name in the inspection business.

(d) Websites containing advertising by one or more inspectors must include the license number of each licensed person whose name or assumed business name appears on the website. For the purposes of an inspector's or inspection company's own website, it is sufficient for the license number(s) to appear on a single prominent page of the website, such as the main page or the "About Us" page. For the purposes of social networking websites, including websites through which licensees may transmit electronic messages to other members of the same site, it is sufficient for license number(s) to appear on the inspector's main or profile page.

(e) The commission may reprimand or suspend or revoke the license of a person who is found to have engaged in false or misleading advertising or to have failed to comply with provisions of this section.

§535.222. Inspection Reports.

(a) For each inspection, the inspector shall:

(1) prepare a written inspection report noting observed deficiencies and other items required to be reported; and

(2) deliver the report to the person for whom the inspection was performed within three days unless otherwise agreed in writing by the client.

(b) The inspection report shall include:

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(1) the name and license number of each inspector who participated in performing the inspection, as well as the name(s) and license number(s) of any supervising real estate inspector(s) and sponsoring professional inspector(s), if applicable;

(2) the address or other unique description of the property on each page of the report; and

(3) the client's name.

§535.226.Sponsorship of Apprentice Inspectors and Real Estate Inspectors.

(a) An apprentice inspector or real estate inspector may be sponsored by only one licensed professional inspector.

(b) A change in sponsorship shall be reported to the commission immediately. If the sponsorship has ended because the professional inspector has terminated the sponsorship, the professional inspector shall immediately so notify the apprentice or real estate inspector in writing. If the sponsorship has ended because the apprentice inspector or real estate inspector has left the sponsorship, the apprentice inspector or real estate inspector shall immediately so notify the professional inspector in writing.

(c) An apprentice inspector or real estate inspector who is on active status may act for the new sponsoring professional inspector once the commission has been notified of the change and any required fee has been submitted. If the apprentice or real estate inspector is on inactive status, the return to active status shall be subject to the requirements of §535.215 of this title (relating to Inactive Inspector Status).

(d) A licensed professional inspector is responsible for the conduct of a sponsored apprentice inspector. At a minimum, a licensed professional inspector shall provide direct supervision of the apprentice inspector by:

(1) accompanying the apprentice inspector during the performance of all inspections performed by the apprentice or arranging for a real estate inspector to accompany the apprentice; and

(2) reviewing any written inspection report prepared by the apprentice inspector for compliance with the provisions of the standards of practice adopted by the commission.

(e) A licensed professional inspector is responsible for the conduct of a sponsored real estate inspector. A licensed professional inspector shall provide indirect supervision in a manner which protects the public when dealing with the real estate inspector. At a minimum a professional inspector shall provide indirect supervision of the real estate inspector by:

(1) communicating with the real estate inspector on a regular basis about the inspections being performed by the real estate inspector ; and

(2) reviewing on a regular basis written inspection reports prepared by the real estate inspector for compliance with the provisions of the standards of practice adopted by the commission.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on December 10, 2010.

TRD No. 201007032
Effective Date: January 1, 2010
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