

**Texas Real Estate Commission
Chapter 535, General Provisions
Subchapter R. Real Estate Inspectors
Rules Adopted at the February 08, 2009 Meeting**

**R. Real Estate Inspectors
§535.208**

The Texas Real Estate Commission (TREC) adopts an amendment to §535.208, Application for a License, without changes to the proposed text as published in the January 1, 2010 issue of the *Texas Register* (35 TexReg 27), which will not be republished. The amendment better implements the statutory requirement that applicants for inspector licenses who fail the examination three times must wait six months before reapplying. Prior to this amendment, applicants were able to circumvent the six-month wait requirement by filing a new application after the second failure, so that a third failure would be registered in the agency's licensing database as occurring under a different application. The amendment will prevent applicants from filing a new application while another application is pending.

The reasoned justification for the amendment is full implementation of the statutory waiting period.

No comments were received regarding the amendment as proposed.

The amendment is 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 amendment.

22 TAC 535.208. Application for a License.

(a) A person desiring to be licensed shall file an application using forms prescribed by the commission. Prior to filing an application for a real estate inspector license or for a professional inspector license, the applicant must pay the required fee for evaluation of the education completed by the person and must obtain a written response from the commission showing the applicant meets current education requirements for the license. The commission may require an applicant to furnish materials such as source outlines, syllabi, course descriptions or official transcripts to verify course content or credit. The commission may not accept an application for filing if the application is materially incomplete or the application is not accompanied by the appropriate fee. The commission may not issue a license unless the applicant:

(1) pays the fee prescribed by the commission;

(2) satisfies any experience or education requirements established by Texas Occupations Code, Chapter 1102 (Chapter 1102), or by these sections;

(3) successfully completes any qualifying examination required by Chapter 1102;

(4) provides all supporting documentation or information requested by the commission in connection with the application; and

(5) submits proof of professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Texas Occupations Code, Chapter 1102 (Chapter 1102), as required by Chapter 1102 and §535.211 of this title (relating to Professional Liability Insurance, or Any Other Insurance that Provides Coverage for Violations of Subchapter G of Texas Occupations Code, Chapter 1102).

(b) A person who has previously satisfied applicable education requirements and obtained an evaluation from the commission also may apply for a license by accessing the commission's Internet web site, entering the required information on the application form

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and paying the appropriate fee in accordance with the instructions provided at the site by the commission. An applicant for an apprentice inspector license must provide the commission with the applicant's photograph and signature prior to issuance of a license certificate. An applicant for a real estate or professional inspector license must provide the commission with the applicant's signature prior to issuance of a license certificate. An applicant may provide the required item(s) prior to the submission of an electronic application.

(c) The Texas Real Estate Commission adopts by reference the following forms approved by the commission. These forms are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188:

- (1) Inspection Log, Form REI 1-3;
- (2) Application for a License as an Apprentice Inspector, Form REI 2-7;
- (3) Application for a License as a Real Estate Inspector, Form REI 4-9;
- (4) Application for a License as a Professional Inspector, Form REI 6-9; and
- (5) Certificate of Insurance, Form REI 8-1.

(d) An application shall be considered void and subject to no further evaluation or processing when one of the following events occurs.

(1) The applicant fails to satisfy a required examination within six months from the date the application is accepted for filing.

(2) The applicant fails to provide information or documentation within 60 days after the commission makes written request for the information or documentation.

(3) The applicant fails to submit a required fee within 60 days after the commission makes written request for payment of the fee.

(4) The applicant fails to submit the required proof of professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of

Chapter 1102, within 60 days after the commission makes written request for proof of insurance.

(e) A person may not file an application while another application for the same license type is pending. An application submitted while another is pending will be returned to the applicant with no further processing.

(f) An application for a license may be denied if the commission determines that the applicant has failed to satisfy the commission as to the applicant's honesty, trustworthiness and integrity or if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines). Notice of the denial and any hearing on the denial shall be as provided in Texas Occupations Code, §1101.364, and §533.34 of this title (relating to Disapproval of an Application for a License or Registration). For the purposes of this section, the term "late renewal" means an application for a license by a person who held the same type of license no more than two years prior to the filing of the application.

(g) Procuring or attempting to procure a license by fraud, misrepresentation or deceit or by making a material misstatement of fact in an application is grounds to deny the application or suspend or revoke the license. It is a violation of this section for a sponsoring professional inspector knowingly to make a false statement to the commission in an application for a license or late renewal of a license for an apprentice or a real estate inspector.

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 February 9, 2010.

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Texas Real Estate Commission
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