

**Texas Real Estate Commission**  
**Chapter 535, General Provisions**  
**Rules Proposed at the February 14, 2011 Commission Meeting**

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**SUBCHAPTER T. EASEMENT OR  
RIGHT-OF-WAY AGENTS**

**22 TAC §535.400, §535.403**

The Texas Real Estate Commission (TREC) adopts amendments to §535.400, concerning Registration of Easement or Right-of-Way Agents, and §535.403, concerning Renewal of Registration, without changes to the proposed text as published in the January 7, 2011, issue of the *Texas Register* (36 TexReg 16) and will not be republished.

Application forms will no longer be promulgated by the commission, but they will be approved when substantive changes are made. The amendments to §535.403 change the renewal fee from \$83 to \$80 to remove the \$3 fee that registrants are required to pay for TexasOnline fees. Since such fees are adopted by Department of Information Resources Rules, the fee does not need to be separately adopted as a fee by the commission.

The reasoned justification for the rules is an enhanced application and renewal processes for Easement or Right-of-Way Agents.

No comments were received on the rules as proposed.

The amendments are adopted under Texas Occupations Code, §1101.051, which authorizes the Texas Real Estate Commission to adopt rules necessary to implement Chapter 1101.

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

***§535.400. Registration of Easement or Right-of-Way Agents.***

(a)An individual desiring to be registered by the commission as an easement or right-of-way agent must file an application on form ERW 1-3 approved by the commission. If the applicant is a business, the applicant must file form ERW 2-3. All applicants must submit a fee of \$80. The

commission will not accept an application which has been submitted without the correct filing fees or which has been submitted in pencil. A person also may apply for registration by accessing the commission's Internet web site, entering the required information on the application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. If the person is an individual, the person must provide the commission with the person's photograph and signature prior to issuance of a registration certificate. The person may provide the photograph prior to the submission of an electronic application. If the applicant does not complete the application process as required by this subsection, the commission shall terminate the application.

(b)After the commission has accepted an application for filing, the commission shall process the application and promptly issue a certificate of registration, request any information required to complete the registration, or advise the applicant that the application has been terminated or disapproved, as the case may be.

(c)The commission shall assign a registration number to each registrant and shall provide each registrant with a certificate of registration. Each registration issued by the commission is valid until the last day of the month one year from the day the registration was issued. Each registrant shall display the certificate of registration issued by the commission in a prominent location in the registrant's place of business, as required by the Act, §1101.507. If the registrant maintains more than one place of business, the registrant shall display either the certificate or a copy of the certificate in each place of business.

(d)The commission may terminate an application with written notice to the applicant for failure to submit information or documentation within 60 days after the commission makes written request for the information or documentation.

(e)The commission may disapprove an application for registration with written notice to the applicant if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1

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of this title (relating to Criminal Offense Guidelines) or the applicant has engaged in conduct prohibited by the Act. Provided a timely written request for a hearing is made by the applicant in accordance with the Act, §1101.364, an applicant whose application for registration has been disapproved is entitled to a hearing. The hearing on the application will be conducted in accordance with the provisions of the Act, §1101.364, and Chapter 533 of this title (relating to Practice and Procedure).

**§535.403. Renewal of Registration.**

(a)The commission shall establish a time period for renewal of each registration, which shall end with the expiration date of the current registration. Each registrant has the responsibility to apply for renewal of a registration by making proper application as specified by this section. Applications must be made on the current renewal application form approved by the commission accompanied by an annual fee of \$80. Failure to receive a registration renewal application form from the commission does not relieve a registrant of the obligation to obtain the appropriate form and to apply for renewal to maintain registration. A registrant also may renew an unexpired registration by accessing the commission's Internet web site, entering the required information on the renewal application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. Failure to provide information requested by the commission in connection with a renewal application is grounds for disciplinary action under the Act, §1101.653. A registrant who fails timely to pay a renewal fee must apply for and receive a new registration in order to act as an easement or right-of-way agent.

(b)The commission shall advise each registrant of the time period for filing a renewal application and paying the renewal fee by mailing a renewal application form to the registrant's last known permanent mailing address as shown in the commission's computerized records at least three months before expiration of the current registration. Each registrant shall furnish a permanent mailing address to the commission and report a

change in permanent mailing address within 10 days after the change occurs. If a registrant fails to provide a permanent mailing address, the last known mailing address for the registrant will be deemed to be the registrant's permanent mailing address. The commission shall have no obligation to so notify a business entity such as a corporation, limited liability company or partnership, that has failed to designate an officer, manager or partner who meets the requirements of §1101.502 of the Act. The commission may not renew a registration issued to a business entity unless the entity has designated an officer, manager or partner who meets the requirements of the Act.

(c)An application for renewal will be deemed to have been timely filed if it shows a postmark on or before the expiration date of the registration. When the last day of the renewal period falls on a non-business day, renewal applications also will be deemed to have been timely filed if received or postmarked no later than the first business day following the last day of the renewal period. "Non-business" days are Saturday, Sunday and any other day upon which the commission offices are closed due to a state holiday designated in the General Appropriations Act or by other law.

(d)Renewals by registrants who are on active duty in the United States armed forces or who are subject to the provisions of the Texas Education Code, §57.491, concerning certain student loans also will be governed by §535.92 of this title (relating to Renewal: Time for Filing; Satisfaction of Mandatory Continuing Education Requirements). This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 17, 2011.

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