

**Texas Real Estate Commission  
Chapter 535, GENERAL PROVISIONS  
Rules Adopted at the November 15, 2010 Commission Meeting**

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**Subchapter E. Requirements for  
Licensure  
§535.50, §535.53, - §535.57**

The Texas Real Estate Commission (TREC or the commission) adopts new §535.50, regarding Definitions; amendments to §535.53, regarding Corporations and Limited Liability Companies; new §535.55, regarding Education Requirements for a Salesperson License; and new §535.57, regarding Examination Requirements for a License without changes to the proposed text as published in the September 10, 2010, issue of the *Texas Register* (35 TexReg 8255).

New §535.54, regarding General Provisions Regarding Education and Experience for a License and new §535.56, regarding Education and Experience requirements for a Broker License are adopted with changes and will be republished. The differences between the rules as proposed and the rules as finally adopted are as follows: new §535.54 is changed to clarify that a bachelor's degree from an accredited college or university counts towards all the related education requirements for a salesperson or broker license, and the proposed amendment regarding acceptance of associate's degrees is deleted; in new §535.56(b)(3), "eight-year" is changed to "six-year" to provide consistency with the change from six years to four years as detailed below.

The amendments and new rules are adopted as part of a comprehensive rule review of 22 TAC Chapter 535.

The definitions in §535.50 are moved from §535.71 and apply to Subchapter E regarding Requirements for Licensure; Subchapter F regarding Pre-License Education and Examination, and Subchapter G regarding Mandatory Continuing Education. Subchapter F only applies to examinations and accreditation of schools, instructors and courses in pre-license education programs.

The amendments to §535.53 clarify the requirements for obtaining and maintaining a broker license for a corporation or limited liability

company. New subsection (c) of §535.53 provides that if a corporation or limited liability company is dissolved with the Office of the Secretary of State the license becomes null and void.

New §§535.54, 535.55, and 535.56 are moved from existing §535.63 in Subchapter F since these sections apply to general education, experience and examination requirements for a license and more appropriately fit under Subchapter E (Requirements for License). New subsection (b) in §535.54 provides that a bachelor's degree count towards all the related education requirements for a salesperson license or broker license.

New §535.57 is moved from existing §535.61. The commission has the authority under §1101.362 of the Act to waive some or all of the education and experience requirements for someone who has been licensed within the six years preceding the date the application is filed. Under current §535.56, the commission has waived the education and experience required for a broker license for a broker who was licensed in the preceding six years (the maximum authorized under the Act) and otherwise meets the requirements of the section. The rule changes the period from six years to four years so that a person who was licensed in the preceding four years and otherwise meets the requirements of the section (experience) could apply for a broker license. Under new §535.56, the applicant would be required to take the examination if the applicant was licensed more than two years prior to the filing of the application.

Generally speaking, the amendment and new rules correct typographical errors, reorganize, clarify, and streamline existing rules, and update cites to new laws and codes.

The revisions 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 versions and do

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**Chapter 535, GENERAL PROVISIONS**  
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---

not materially alter the issues raised in the proposed rules.

The reasoned justification for the amendments is more streamlined, consistent and readable rules, and to ensure adequate education of brokers getting back into the industry after being out for a significant period of time.

The Texas Association of Realtors and the Metrotex Association of Realtors commented on 22 TAC §535.54.

The commission received 6 comments on the rules as proposed.

Comment: One commenter believes that the commission should evaluate anyone with an associate's degree to determine whether the courses taken meet the related course requirements for a salesperson license.

Response: The commission agrees with the commenter and has changed the rule to be consistent with the comment.

Comment: Two commenters disagree with the proposed changes to §535.54 because they believe that it lowers the bar for licensing of salespersons and brokers.

Response: The commission has changed the rule to be consistent with the comment with respect to an associate's degree. With respect to a bachelor's degree, the commission respectfully disagrees with the commenters. Staff experience with evaluation of applicants with bachelor degrees shows that there are normally sufficient basic education requirements in such degree programs to meet the related course requirements for a salesperson or broker license. In addition, the commission has revised the rule to clarify that only bachelor's degrees from accredited colleges or universities will be deemed to meet the related course requirements for a license.

Comment: Two commenters disagree with the proposed changes to §535.54 because they believe that it lowers the bar for licensing of salespersons and brokers because the commission would be

accepting the bachelor's degree to count for all education requirements.

Response: The commission respectfully clarifies to the commenters that §535.54(b) applies only to related coursework, not real estate education.

Comment: One commenter disagrees with the changes to §535.56 because the commenter believes that it waters down the requirements for a broker's license.

Response: The commission respectfully disagrees with the comment. The changes would permit an applicant to use existing education requirements if the applicant had been previously licensed no more than 4 years before. The existing rule permits an applicant with a previous broker's license to reapply within 6 years based on then existing education requirements. Therefore, the new rule actually raises the bar by changing the time period from 6 to 4 years.

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 the Act to ensure compliance with the provisions of the Act.

The statutes affected by this adoption are Texas Occupations Code, Chapter 1101 and Chapter 1102. No other statute, code or article is affected by the adoption.

***§535.50. Definitions.***

The following words and terms, when used in Subchapter E, F or G of this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Alternative delivery method--A method of course delivery other than classroom or correspondence. Alternative delivery method courses include online courses and webinars.

**Texas Real Estate Commission**  
**Chapter 535, GENERAL PROVISIONS**  
**Rules Adopted at the November 15, 2010 Commission Meeting**

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(2) Applicant--A person seeking approval to be a provider or instructor of a course for which core or mandatory continuing education credit is given.

(3) Certified MCE instructor--An instructor approved by the Texas Real Estate Commission and certified to teach the required legal update course or the required ethics course.

(4) Distance learning course--A correspondence course, alternative delivery method course or course offered through video presentation.

(5) Elective credits--The hours of mandatory continuing education required to renew a license for which a specific course is not required.

(6) Hour--Fifty minutes of actual session time.

(7) Instructor--A person approved by the Texas Real Estate Commission to teach core or mandatory continuing education courses.

(8) MCE--Mandatory Continuing Education.

(9) Proctor--A person who monitors a final examination for a course offered by a provider under the guidelines contained in this section. A proctor may be a course instructor, the provider, an employee of a college or university testing center, a librarian, or other person approved by the commission.

(10) Provider--Any person offering a course for which credit may be granted by the Commission to a licensee or applicant, regardless of whether the Commission must approve or certify the person to offer the course.

(11) Related course--A course determined to be acceptable by the commission to count towards related credit. The commission will periodically publish lists of acceptable real estate related courses.

(12) Required legal course or legal credits--The required legal update or legal ethics courses or credits earned for attending such courses.

(13) Required legal ethics course--A required course created for and approved by the Texas Real Estate Commission to satisfy

three of the six legal hours of mandatory continuing education required by §1101.455 of the Act.

(14) Required legal update course--A required course created for and approved by the Texas Real Estate Commission to satisfy three of the six legal hours of mandatory continuing education required by §1101.455 of the Act.

(15) School--A person accredited by the Texas Real Estate Commission to offer courses for which core credit is given.

(16) Student--An individual taking a core or MCE course for TREC credit.

***§535.53.Corporations and Limited Liability Companies.***

(a) For the purposes of qualifying for, maintaining, or renewing a license, a corporation or limited liability company must designate one individual holding an active Texas real estate broker license to act for it. The designated broker must be an officer of the corporation or a manager of a limited liability company. The corporation or limited liability company may not act as a broker during any period in which it has not designated a person to act for it who meets the requirements of the Act. Upon any change in the corporation or limited liability company's designated individual, the corporation or limited liability company must provide proof to the commission of the designated individual's current status as an officer or manager for that entity. A broker may not act as a designated person at any time while the broker's license is inactive, expired, suspended or revoked.

(b) Section 1101.355 of the Act applies only to corporations or limited liability companies which are created under the laws of this state, provided, however, that a corporation or limited liability company formed under the laws of a state other than Texas will be considered to be a Texas resident for purposes of this section if it is qualified to do business in Texas; its officers or managers, its principal place of business and all of its assets are located in Texas; and all of its officers and directors or managers and members are Texas residents.

**Texas Real Estate Commission**  
**Chapter 535, GENERAL PROVISIONS**  
**Rules Adopted at the November 15, 2010 Commission Meeting**

---

(c) If a licensed corporation or limited liability company is dissolved with the Office of the Secretary of State, then the license immediately becomes null and void.

***§535.54. General Provisions Regarding Education and Experience Requirements for a License.***

(a) License or experience in another state. Except as provided by this subchapter and the Act, the commission will not accept a person's license in another state or experience in real estate brokerage or any related business in satisfaction of education or experience required for a license.

(b) Coursework requirements in related subjects. A person who has earned a bachelor's degree from an accredited college or university will be deemed to have completed the number of related hours required for a salesperson or broker license.

(c) The commission will not grant credit to a student who was previously awarded credit for completing a course with substantially the same course content within the previous two-year period.

***§535.55. Education Requirements for a Salesperson License.*** Notwithstanding §1101.451(f) of the Act, the commission may waive the education required for a real estate salesperson license if the applicant:

(1) was licensed either as a Texas real estate broker or as a Texas real estate salesperson within six years prior to the filing of the application; and

(2) completed any core real estate courses or real estate related courses that would have been required for a timely renewal of the prior license, or, if the renewal of the prior license was not subject to the completion of core real estate courses or real estate related courses, completed at least 15 hours of mandatory continuing education (MCE) courses within the two-year period prior to the filing of an application for an active license.

***§535.56. Education and Experience Requirements for a Broker License.***

(a) An applicant for a broker license must have two years of experience actively practicing

as a broker or salesperson in Texas during the 36 months prior to filing the application, as follows:

(1) Experience is measured from the date a license is issued, and inactive periods caused by lack of sponsorship, or any other reason, cannot be included as active experience.

(2) Under §1101.357 of the Act, a person who is the designated officer of a corporation or limited liability company that is licensed as a real estate broker in another state is deemed to be a licensed real estate broker in another state. A person licensed in another state may derive the required two years' experience from periods in which the person was licensed in one or more states.

(b) Notwithstanding §1101.451(f) of the Act, the commission may waive education and experience required for a real estate broker license if the applicant satisfies each of the following conditions.

(1) The applicant was licensed as a Texas real estate broker or salesperson within four years prior to the filing of the application.

(2) If the applicant was previously licensed as a Texas real estate broker, the applicant has completed at least 15 hours of mandatory continuing education (MCE) courses within the two-year period prior to the filing of an application for an active license. If the applicant was previously licensed as a Texas real estate salesperson, the applicant satisfies all current education requirements for an original broker license.

(3) The applicant has at least two years of active experience as a licensed real estate broker or salesperson during the six-year period prior to the filing of the application.

***§535.57. Examination Requirements for a License.***

(a) Notwithstanding §1101.451(f) of the Act, the commission shall waive the examination requirement for an applicant for a broker license who has been licensed as a broker in this state within two years prior to the filing of the application. The commission shall waive the examination requirement for an applicant for a salesperson license who has been licensed in

**Texas Real Estate Commission  
Chapter 535, GENERAL PROVISIONS  
Rules Adopted at the November 15, 2010 Commission Meeting**

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this state as a broker or salesperson within two years prior to the filing of the application.

(b) The commission may waive the national portion of the examination of an applicant for a broker or salesperson license if the applicant maintains an active license in another state, equivalent to the license being applied for, and has passed a comparable national examination accredited or certified by a nationally recognized real estate regulator association.

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 December 6, 2010

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