

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

**Subchapter I. Licenses
§535.91, §535.92, §535.94, and
new §535.96**

The Texas Real Estate Commission (TREC or the commission) adopts amendments to §535.91, regarding Renewal Notices; §535.92, regarding Renewal: Time for Filing; Satisfaction of Mandatory Continuing Requirements; §535.94, regarding Hearing on Application Disapproval: Probationary Licenses; and new §535.96, regarding Mailing Address and Other Contact Information without changes to the proposed text as published in the September 10, 2010, issue of the *Texas Register* (35 TexReg 8263) and will not be republished.

TREC is simultaneously adopting the amendments and new rule as part of a comprehensive rule review of 22 TAC Chapter 535.

Section 535.91 is amended to make it consistent with other provisions; parts of subsection (c) are deleted and moved to new §535.96; new subsection (e) is moved from §535.92(m). Section 535.92 is amended to provide consistency with other provisions of the chapter; new subsection (e) is moved from §535.63(c). Section 535.94 is amended to provide consistency with other provisions of the chapter; new subsection (d) clarifies that if a person who has a probationary license renews the license within the one-year late renewal period, the new license is subject to the remaining probationary period from the previous probationary license. New §535.96 regarding Mailing Address and Other Contact Information is moved from §535.91; the new section requires licensees to notify the commission of the licensee's email address.

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

The reasoned justification for the amendments is more streamlined, consistent and readable rules.

No comments were received on the rules as proposed.

The amendments 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.

§535.91. Renewal Notices.

(a) Each real estate license expires on the date shown on the face of the license certificate issued to the licensee. The licensee has the responsibility to apply for renewal of a license by making proper application, paying the fee set by the commission and completing MCE courses within the time periods required by the Act, §1101.455, unless otherwise authorized by §1101.457 of the Act and §535.92 of this subchapter (relating to Renewal: Time for Filing; Satisfaction of Mandatory Continuing Education Requirements).

(b) Except as authorized by §535.92 of this subchapter, for the renewal of a license on active status that is not subject to the annual education requirements of §1101.454 of the Act, the license holder must attend during the term of the current license, at least two Commission developed legal courses consisting of a three-hour legal update course and a three-hour legal ethics course to comply with the six legal hours of mandatory continuing education required by §1101.455 of the Act. The remaining nine hours required by §1101.455 of the Act may consist of elective credit courses registered with the commission under Subchapter G of this chapter (relating to Mandatory Continuing Education).

(c) The commission shall mail a license renewal notice three months before the expiration of the current license. Failure to receive a license renewal notice does not

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relieve a licensee of the obligation to renew a license.

(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) If a licensee is unable to renew a license on the commission's Internet website, the licensee may renew an unexpired license by obtaining a renewal application form from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188 and complying with the commission's requirements.

§535.92.Renewal: Time for Filing; Satisfaction of Mandatory Continuing Education Requirements.

(a) A renewal application is timely filed if it is received by the commission or postmarked on or before the expiration date of the license. If the license expires on a Saturday, Sunday or other day on which the headquarters office of the commission is not open for business, the renewal application is timely filed if the application is received or postmarked no later than the first business day after the expiration date of the license.

(b) If an application is filed within one year after the expiration of an existing license, the commission may issue the new license prior to completing the investigation of any complaint pending against the applicant or of any matter revealed by the application. The commission may thereafter initiate an action to suspend or revoke the license after notice and hearing in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001.

(c) The commission shall advise each licensee of the time period for filing a renewal application and paying the renewal fee by mailing an appropriate notice to the licensee as prescribed by §535.91 of this subchapter (relating to Renewal Notices). If the licensee is subject to MCE requirements, the notice must

also contain the number of MCE hours for which the licensee has been given credit and the number of additional MCE hours required for renewal of the license. The commission shall have no obligation to so notify an inactive licensee who has failed to furnish the commission with the person's mailing address and email address_or a corporation, limited liability company or partnership that has failed to designate an officer, manager or partner who meets the requirements of the Act.

(d) A licensee shall renew an unexpired license by accessing the commission's Internet website, entering the required information on the renewal application form, satisfying applicable education requirements and paying the appropriate fee in accordance with the instructions provided at the website by the commission.

(e) In order to maintain a license, a salesperson subject to annual education requirements shall furnish documentation to the commission of successful completion of appropriate courses no later than 10 business days prior to the day the salesperson files an application with the commission to renew the salesperson's license.

(f) The commission may not renew a license issued to a business entity unless the business entity_has designated an officer, manager or partner who meets the requirements of the Act, including satisfaction of MCE requirements. No person may act as designated officer, manager or partner if the person has failed to meet MCE requirements. For the purpose of this section, MCE requirements for the designated officer, manager or partner must be satisfied during the term of any individual broker license held by the officer, manager or partner. A designated partner who is not licensed individually as a broker must complete MCE required for a two-year license within the term of the partnership's license in order to renew the license of the partnership. If the individual real estate broker license of a designated partner expires, the partnership may only renew its license if the designated partner has satisfied MCE requirements that would have been imposed if the license of the designated partner had not expired.

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(g) Notwithstanding any provisions of the Act to the contrary, when a licensee in an active status files a timely application to renew a current license and has satisfied all requirements other than the completion of applicable MCE requirements, the commission shall renew the current license in an active status.

(1) If the licensee has not completed MCE requirements prior to the expiration of the current license, the licensee must, within 60 days after the effective date of the new license, pay an additional MCE deferral fee of \$200 AND complete the required number of MCE hours.

(2) If, within 15 days after the end of the 60 day period set out in paragraph (1) of this subsection, the commission has not been provided with evidence that the licensee has completed the required number of MCE hours and paid the MCE deferral fee of \$200, the renewed license shall be placed on inactive status.

(3) In order to reactivate a license placed on inactive status under this subsection, the licensee must:

(A) provide the commission with evidence that the licensee has completed the required MCE hours;

(B) certify, on a form acceptable to the commission, that the licensee has not engaged in activity requiring a license at any time after the license became inactive;

(C) complete and submit a Request to Return to Active Status Form if a broker or a Salesperson Sponsorship Form if a salesperson and pay the appropriate fee;

(D) if the license was placed on inactive status because the licensee failed to timely pay the \$200 MCE deferral fee required by paragraph (1) of this subsection, the licensee must, because the licensee received the benefits of the 60-day deferral, pay the \$200 MCE deferral fee; and

(E) pay a late reporting fee of \$250.

(4) For the purpose of this section, a renewed license is effective the day following the expiration of the current license. MCE courses completed after expiration of the

current license under this provision may not be applied to the following renewal of the license.

(h) Credit will not be given for attendance of the same course more than once during the term of the current license or during the two-year period preceding the filing of an application for late renewal or return to active status. Each licensee attending all sessions of a course shall sign the course completion roster, and provide the information required for each licensee on the form. A real estate licensee may receive partial credit for partial attendance at an MCE elective credit course if the provider permits partial credit and the provider and student verify attendance on the Individual MCE Partial Credit Request Form. A false statement to the commission concerning attendance at an MCE course will be deemed a violation of the Act and of this section.

(i) A course taken by a Texas licensee to satisfy continuing education requirements of another state may be approved on an individual basis for MCE elective credit in this state upon the commission's determination that:

(1) the Texas licensee held an active real estate license in the other state at the time the course was taken;

(2) the course was approved for continuing education credit for a real estate license by the other state and, if a correspondence course, was offered by an accredited college or university;

(3) the Texas licensee's successful completion of the course has been evidenced by a course completion certificate, a letter from the provider or such other proof as is satisfactory to the commission;

(4) the subject matter of the course was predominately devoted to a subject acceptable for MCE credit in this state; and

(5) the Texas licensee has filed a Credit Request for an Out of State Course Credit Request, with the commission.

(j) To request MCE elective credit for real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit, a licensee shall file an Individual MCE Credit Request for State Bar Course.

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(k) Real estate licensees may receive MCE elective credit for core real estate courses or core real estate inspection courses that have been approved by TREC or that are accepted by TREC for satisfying educational requirements for obtaining or renewing a license. Core real estate courses must be at least 30 classroom hours in length to be accepted for MCE elective credit.

(l) A course taken by a licensee to obtain any of the following professional designations, or any other real estate related professional designation course deemed worthy by the commission, may be approved on an individual basis for MCE elective credit if the licensee files for credit for the course using Individual MCE Elective Credit Request for Professional Designation Course and provides the Commission with a copy of the course completion certificate.

- (1) ABR--Accredited Buyer Representative
- (2) CRE--Counselor in Real Estate
- (3) CPM--Certified Property Manager
- (4) CCIM--Certified Commercial-Investment Member
- (5) CRB--Certified Residential Broker
- (6) CRS--Certified Residential Specialist
- (7) GRI--Graduate, Realtor Institute
- (8) IREM--Institute of Real Estate Management
- (9) SIOR--Society of Industrial and Office Realtors

(m) A member of the Texas Legislature who is a licensee need only take three (3) hours in legal ethics to satisfy the legal mandatory continuing education requirements. To obtain an exemption, the licensee must be a current member of the Legislature.

§535.94.Hearing on Application Disapproval: Probationary Licenses.

(a) For the purposes of §1101.364 and §1101.505 of the Act and §1102.114 of Chapter 1102, "denial of a license" means to disapprove an applicant for a license for failure to comply with the requirement of

§1101.354(2) of the Act, to satisfy the commission as to the applicant's honesty, trustworthiness and integrity, or, if the applicant seeks registration as an easement or right-of-way agent, to disapprove an application for registration under §535.400 of this title (relating to Registration of Easement or Right-of-Way Agents).

(b) If the commission or a SOAH administrative law judge determines that issuance of a probationary license is appropriate, the order entered by the commission with regard to the application must set forth the terms and conditions for the probationary license. Terms and conditions for a probationary license may include any of the following:

- (1) that the probationary licensee comply with the Act and with the rules of the Texas Real Estate Commission;
- (2) that the probationary licensee fully cooperate with the enforcement division of the Texas Real Estate Commission in the investigation of any complaint filed against the licensee;
- (3) that the probationary licensee attend a prescribed number of classroom hours in specific areas of study during the probationary period;
- (4) that the probationary licensee limit real estate brokerage practice as prescribed in the order;
- (5) that the probationary licensee report regularly to the commission on any matter which is the basis of the probationary license; or
- (6) that the probationary licensee comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the commission after due consideration of the circumstances involved in the particular application.

(c) Unless the order granting a probationary license specifies otherwise, a probationary licensee may renew the license after the probationary period by filing a renewal application, satisfying applicable education requirements and paying the prescribed renewal fee.

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(d) If a license expires prior to the completion of a probationary term and the licensee files a late renewal application as authorized by §535.93 of this subchapter (relating to Late Renewal Applications), any remaining probationary period shall be reinstated effective as of the day following the renewal of the previous license.

§535.96. Mailing Address and other Contact Information.

(a) Each licensee shall furnish a 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 the mailing address, the last known mailing address provided to the commission will be deemed to be the licensee's mailing address.

(b) The commission shall mail a notice or correspondence to an active broker or an inactive licensee to the mailing or email address of the broker or licensee as shown in the commission's records. The commission shall mail a notice or correspondence to an active salesperson to the mailing or email address of the salesperson's sponsoring broker as shown in the commission's records.

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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Texas Real Estate Commission