

Texas Real Estate Commission
Chapter 541, RULES RELATING TO THE PROVISIONS OF TEXAS
OCCUPATIONS CODE, CHAPTER 53
Rules Adopted at the August 9, 2009 Meeting

**Chapter 541. RULES RELATING TO
THE PROVISIONS OF TEXAS
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22 TAC §541.1, §541.2

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC §541.1 concerning Criminal Offense Guidelines and new 22 TAC §541.2 concerning Criminal History Evaluation Letters without changes to the proposed text as published in the June 11, 2010, issue of the *Texas Register* (35 TexReg 4857) and will not be republished.

House Bills 963, and 2808, 81st Legislature, Regular Session (2009) amended Texas Occupations Code Chapter 53. These bills changed the license eligibility requirements for persons with criminal histories and changed TREC's authority to review and consider a person's criminal history information. The amendments and new rule clarify license eligibility for persons with criminal histories, and outline the process by which a person may request and receive a criminal history evaluation letter under Chapter 53.

The amendments to §541.1 clarify that the commission considers convictions and deferred adjudications of the offenses listed in the rule to be directly related to the duties and responsibilities of the licenses issued by the commission for the reasons articulated in the rule. The amendments clarify that the commission has determined that multiple violations which evidence a disregard for or inability to comply with the law and felony offenses involving driving while intoxicated or under the influence directly relate to the duties and responsibilities of a license issued by the commission.

The new rule implements the new statutory requirements under Occupations Code Chapter 53. The new statutory provisions require the commission to establish a process that will allow

a person to submit a request for a criminal history evaluation. Under Chapter 1101, §1101.353, the commission is already authorized to issue a moral character determination of an applicant. Under the new rule, the commission will review the person's criminal history under Chapter 53 using the same process it currently uses to conduct a moral character determination under Chapter 1101. The intent of both statutes is to provide information about potential license ineligibility based on criminal history before a person spends time and money pursuing an education or training, taking an examination, or applying for a particular license. New §541.2 clarifies that a person may request an eligibility letter from the commission under Chapter 53 using the same form and paying the same fee required of persons applying for a moral character determination under §1101.353.

The reasoned justification for the amendments and new rule is greater clarity regarding license eligibility for persons with criminal histories.

No comments were received on the amendments and new rule as proposed.

The amendments and new rule 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 1102. No other statute, code or article is affected by the amendments and new rule.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 12, 2010.

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