Subchapter E. Requirements for Licensure
§535.50, §535.51 and§535.53

The Texas Real Estate Commission (TREC) adopts amendments to 22 TAC Subchapter E, §535.50 regarding Definitions, §535.51 regarding General Requirements and §535.53 regarding Corporations and Limited Liability Companies on an emergency basis. The amendments are adopted on an emergency basis to implement the relevant provisions of Senate Bill 747, 82nd Texas Legislature, Regular Session (2011). The effective date of the relevant provisions of SB 747 is September 1, 2011. The adoption of the amendment is necessary to comply with the effective date of the bill. In relevant part, SB 747 amends Texas Occupations Code, §1101.401 to expand from six months to one year the period of time in which an applicant may satisfy an examination requirement from the date the application is filed. In addition, the application and renewal requirements for business entities were changed in §§1101.355 and 1101.453 to require that business entities applying for and renewing a broker license must provide proof that the entity maintains errors and omissions insurance with a minimum annual limit of $1 Million if the designated broker owns less than 10 percent of the entity. Finally SB 747 amends Chapter 1101 to delete the exemption from licensing for partnerships in which a general partner is a broker and requires licensure as a broker for any business entity as defined in Section 1.002 of the Business Organizations Code Emergency action is necessary to amend §535.50, §535.51, and §535.53 to be consistent with SB 747.

The amendments to §535.50 amend the list of definitions to define a designated broker of a business entity and to clarify that the designated broker must be an officer of a corporation, a manager of a limited liability company or a general partner of a partnership. The amendments to §535.51 clarify that an applicant must meet education and experience requirements before the applicant may take a qualifying examination. The amendments to §535.53 change the title of the rule to apply to all business entities, not just corporations and limited liability companies, to add partnerships to the types of business entities that must be licensed, and to address the requirement that business entities must maintain errors and omissions insurance if the designated broker owns less than 10 percent of the entity.

The amendments are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its licensees to fulfill the purposes of chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

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

§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) -(3) (No Change.)

(4) Designated broker – An individual holding an active Texas real estate broker license designated by a business entity licensed by the commission to act on its behalf. The designated broker must be an officer of a corporation, a manager of a limited liability company or a general partner of a partnership.

(5) **[~~(4)~~]** Distance learning course--A correspondence course, alternative delivery method course or course offered through video presentation.

(6) **[~~(5)~~]** Elective credits--The hours of mandatory continuing education required to

renew a license for which a specific course is not required.

(7) [~~(6)~~] Hour--Fifty minutes of actual session time.

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

(9) [~~(8)~~] MCE--Mandatory Continuing Education.

(10) [~~(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.

(11) [~~(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.

(12) [~~(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.

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

(14) [~~(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.

(15) [~~(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.

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

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

§535.51. General Requirements for a License.

(a) –(c) (No Change.)

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

(1) the applicant fails to satisfy a current education**, experience or** [~~requirement or an~~] examination requirement within **one year** [~~six months~~] from the date the application is filed;

(2)-(4) (No Change.)

(e) An applicant must complete relevant education and experience requirements before the applicant is eligible to take a qualifying examination for a license.

§535.53 Business Entities [~~Corporations and Limited Liability Companies~~.]

(a) For the purposes of qualifying for, maintaining, or renewing a license, a **business entity** [~~corporation or limited liability company~~] must designate **a broker** [~~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 **business entity** [~~corporation or limited liability company~~] may not act as a broker during any period in which it **does** [~~has~~] not **have a** designated ~~a~~ **broker** [~~person~~] to act for it who meets the requirements of the Act. Upon any change in the **business entity's** [~~corporation or limited liability company's~~] designated **broker** [~~individual~~], the **entity** [~~corporation or limited liability company~~]

must provide proof to the commission of the designated **broker's** **[~~individual's~~]** current status as an officer**,** **[~~or~~]** manager **or general partner** for that entity **and proof that the business entity maintains appropriate errors and omissions insurance if the designated broker owns less than 10 percent of the entity.** A broker may not act as a designated **broker [~~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 **business entities** **[~~corporations or limited liability companies~~]** which are created under the laws of this state, provided, however, that **a business entity** **[~~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**,** **or general partner,** 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 **and partners** are Texas residents.

(c) (No Change.)

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.

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