



**AGENDA FOR TEXAS REAL ESTATE COMMISSION
EDUCATION STANDARDS ADVISORY COMMITTEE (ESAC)**

Conference Room 400A, TREC Headquarters Office
1700 N. Congress, Austin, Texas

October 12, 2015 10:00 a.m.

- 1. Call to order**
- 2. Discussion and possible action to approve the June 17, 2015 meeting minutes**
- 3. Public comment on non-agenda items**
- 4. Discussion and possible action regarding comments on proposed revisions to Subchapters F & G based on proposed distance course delivery criteria, legislative changes and examination passage rates for a provider**
- 5. Discussion and possible action regarding comments on proposed revisions to §§535.91-92**
- 6. Discussion and possible action regarding comments on proposed revisions to §535.64 regarding Guidelines for Real Estate Brokerage Course**
- 7. Discussion and possible action regarding qualifications for instructors of Adult Education Instructor Training Courses**
- 8. Discussion and possible action regarding preparation of guidelines for remaining qualifying courses**
- 9. Discussion and possible action regarding time and agenda items for next meeting**
- 10. Adjourn**



**MINUTES FOR TEXAS REAL ESTATE COMMISSION
EDUCATION STANDARDS ADVISORY COMMITTEE (ESAC)**

Conference Room 400A, TREC Headquarters Office
1700 N. Congress, Austin, Texas

June 17, 2015 10:00 a.m.

1. Call to order

The meeting was called to order at 10:05 a.m.

Members in Attendance: Susan Jones, Dianne McCoy, Bob Baker, Bill Evans, Andy Hemmings, Ronny Willis, Bill Bradshaw, Pat Strong, Rebecca Ray, Rita Klein, Philip Schoewe

Guests in Attendance: Greg Eakin, Mike Handcock, Lynn Morgan, Stan Harbuck, Donna Harbuck, Ken Trussell, Debra Hernandez

Staff in Attendance: Kerri Lewis, Gwen Jackson, Jennifer Wheeler, Tony Slagle, Janell Senn

2. Discussion and possible action to approve the April 7, 2015 meeting minutes

The minutes were approved with no changes.

3. Public comment on non-agenda items

No comments were received.

4. Discussion and possible action regarding recommended revisions to Subchapters F & G based on proposed distance course delivery criteria, legislative changes and proposed revisions to examination passage rates for a provider

The committee reviewed proposed amendments to the rules for education providers, courses and instructors for both qualifying and continuing education programs based on the criteria the committee set out at their April meeting and statutory changes passed by the legislature. After discussion, several clarifications were made and changes were made to the examination passage rate benchmark and what was previously proposed regarding required examinations for continuing education courses. The committee voted to recommend the proposed amendments as revised in the meeting to the Commission for publication and comment.

5. Discussion and possible action regarding increase in number of CE hours required

After much debate, the committee voted to recommend that the Commission increase the number of continuing education hours a license holder must complete in order to renew a license from 15 to 17 hours.

6. Discussion and possible action regarding qualifying and CE instructor requirements

The committee reviewed and approved the staff's revised guideline outlining acceptable instructor qualifications for various qualifying and non-elective continuing education courses. The committee recommended that the list be available on the Commission's website so that potential instructors could see the guidelines prior to applying. The committee also discussed the need for specific qualification for instructors of the newly required adult education training course. The chair appointed a working group

to come up with some criteria and instructed the working group to give that information to staff so that it could be included in the committee's recommendation to the Commission in August.

7. Discussion and possible action regarding Guidelines for Real Estate Broker Course

Jennifer Wheeler presented a draft of course guidelines for the Real Estate Broker Course. The Committee reviewed and revised the form and asked staff to incorporate the guidelines into a rule that the Committee would recommend to the Commission for publication and comment at their August meeting.

8. Discussion and possible action regarding time and agenda items for next meeting

The next committee meeting will be held on October 12th, 2015 at 10 a.m. at TREC headquarters in Austin.

9. Adjourn

Adjourned at 4:05 p.m.



PROPOSED RULE ACTION FROM THE AUGUST 17, 2015, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS

Subchapter F. Requirements for Education Providers, Courses and Instructors for
Qualifying Education

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

~~[(1) Alternative delivery—A method of course delivery other than classroom delivery where the course has been certified by a distance learning certification center acceptable to the Commission.]~~

~~[(1) [(2)] Applicant—A person seeking approval to be an education provider or instructor of qualifying courses.~~

~~[(2) [(3)] Classroom delivery—A method of course delivery where the instructor and students interact face to face and in real time, in either the same physical location, or through the use of technology.~~

[(3) Distance Education delivery—A method of course delivery other than classroom delivery, including alternative delivery and correspondence delivery.]

~~[(4) Correspondence delivery—A method of course delivery other than classroom delivery where the course has not been certified by a distance learning certification center acceptable to the Commission.]~~

[(4) [(5)] Instructor—A person approved by the Commission to teach qualifying courses.

[(5) [(6)] Mandatory qualifying course—A qualifying course that an applicant is required to take to fulfill licensing requirements as mandated by §1101.358 of the Act.

[(6) [(7)] Other qualifying course—A qualifying course, other than a mandatory qualifying course, for which the subject matter of the course is specified by the Act or Commission rule, that an applicant is required to take to fulfill licensing requirements.

[(7) [(8)] Person—Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

[(8) [(9)] Provider—Any person approved by the Commission; or specifically exempt by the Act, Chapter 1102, or Commission rule; that offers a course for which qualifying credit may be granted by the Commission to a license holder or applicant.

[(9) Scenario-based learning—The use of scenarios to support active learning strategies such as problem-based or case-based learning where students must apply their subject knowledge, critical thinking and problem solving skills in a real-world context.]

[(10) Topic—Subject categories of what must be covered in a specific course as defined by the Act, Chapter 1102 and this chapter.

[(11) Unit—A subtopic within a topic.]

535.61 Approval of Providers of Qualifying Courses

(a)-(b) (No change.)

(c) Standards for approval. To be approved as a provider by the Commission, the applicant must meet the following standards:

(1) the applicant must satisfy the Commission as to the applicant's ability to administer courses with competency, honesty, trustworthiness and integrity. If the applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant;

(2) the applicant must demonstrate that the applicant has sufficient financial resources to conduct its proposed operations on a continuing basis without risk of loss to students taking courses from the approved provider; and

(3) that any proposed facilities will be adequate and safe for conducting courses

(d) Financial review. An applicant shall provide the following information to enable the Commission to determine if an applicant has sufficient financial resources to conduct its proposed operations:

(1) business financial statements prepared in accordance with generally accepted accounting principles, which shall include a current income statement and balance sheet ~~[of financial condition and a current statement of net worth]~~;

(2) a proposed budget for the first year of operation; and

(3) a market survey indicating the anticipated enrollment for the first year of operation.

(e)-(g) (No change.)

(h) Payment of an annual operation fee.

(1) An approved provider shall submit the Commission approved form and pay an annual operation fee prescribed by §535.101 of this title no later than each anniversary of the date of the provider's approval.

(2) An approved provider who fails to pay the annual operation fee as prescribed shall be placed on inactive status and notified in writing by the Commission.

(3) The approved provider will remain on inactive status until the annual fee is paid.

(4) The Commission will not give credit for courses given by a provider on inactive status.

(i) (No change.)

(j) Subsequent Approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for subsequent approval [renewal] for another four year period.

(2) Approval or disapproval of a subsequent [renewal] application shall be subject to:

(A) the standards for initial applications for approval set out in this section; and

(B) whether the approved provider has met or exceeded the exam passage rate benchmark established by the Commission under subsection (k).

(3) The Commission will not require a financial review for subsequent approval [renewal] if the

applicant has provided a statutory bond or other security acceptable to the Commission under §1101.302 of the Act, and there are no unsatisfied final money judgments against the applicant.

(k) Exam passage rates and benchmark.

(1) The exam passage rate for an approved provider shall be: ~~[For purposes of this subsection, a student is affiliated with the approved provider where the student took his or her last qualifying course. The Commission will not count the student in calculating the approved provider's exam pass rate if the student's last qualifying course was taken more than two years before the date the approved provider or student submitted the course to the Commission.]~~

(A)calculated for each license category for which the provider offers courses; and

(B) displayed on the Commission website by license category.

(2) The Commission will calculate the exam passage rate of an approved provider ~~[providers for each category of license will be calculated]~~ on a monthly [quarterly] basis by:

(A)determining [dividing] the number of students affiliated with that approved provider~~[,]~~ who passed the examination on their first attempt in the two [four]-year period ending on the last day of the previous month; and [quarter,]

(B) dividing that number by the total number of students affiliated with that provider ~~[the approved provider's graduates]~~ who took the exam for the first time during that same period.

(3) A student is affiliated with a provider under this subsection if the student took the majority of his or her hours of qualifying education with the provider in the two year period prior to taking the exam for the first time.

(4)[(3) If an approved provider offers courses to multiple license categories, the exam results for that approved provider will be calculated by license category. The passage rate for each license category that will be used to determine whether the approved provider has met or exceeded] For purposes of approving a subsequent application under subsection (j), the established exam passage rate benchmark for each [the] license category is

80% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month.~~[most current rate published by the Commission as of the date the Commission receives the timely application for renewal or, if the approval expired before being renewed, the most recent rate published by the Commission as of the expiration date of that provider's approval.]~~

(5)~~[(4) Providers who do not]~~ If at the time the Commission receives a subsequent application for a provider, the provider's exam passage rate does not meet the established benchmark for a license category the provider will be: ~~[may be denied renewal]~~

(A) disapproved for that license category if the provider's exam passage rate is less than 50% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month; or

(B) placed on probation by the Commission if the provider's exam passage rate is 50% or greater of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month ~~[under terms acceptable to the Commission].~~

(6) The exam passage rate of a provider on probation will be reviewed annually at the time the annual operating fee is due to determine if the provider can be removed from probation, remain on probation or have its license revoked, based on the criteria set out in (k)(5) of this section.

~~[(5) In determining whether an approved provider qualifies for renewal for a particular license category based on its examination passage rate, the Commission may consider a variety of factors, including:~~

~~(A) the overall passage rate for sales, broker, and inspector applicants; and~~

~~(B) any trends within the approved provider's passage rate over the four-year approval period.]~~

~~[(6) The Commission will publish the exam passage rate of providers by category of license on the Commission's website on a quarterly basis.]~~

535.62 Approval of Qualifying Courses

(a) Application for approval of a qualifying course.

(1) For each qualifying course a provider intends to offer, the provider must:

(A) submit the [applicable] course application and course approval forms, [form(s)] including all materials required; and

~~[(B) submit all materials listed on the applicable course approval form(s); and]~~

(B)~~[(C)]~~ pay the fee required by §535.101 or §535.210 of this title.

(2) A provider may file a single application for a qualifying course offered through multiple delivery methods. A fee is required for content and examination review of each qualifying course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved qualifying course must submit a new application and pay all required fees, including a fee for content and examination review.

(4)~~[(2)]~~ The Commission may:

(A) request additional information be provided to the Commission relating to an application; ~~[and]~~

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request; ~~and~~

(C) prior to approval of a proposed qualifying real estate inspector course, submit the course to the Texas Real Estate Inspector Committee for review and recommendation.

(b) Standards for course approval.

(1) To be approved as a qualifying course by the Commission, a provider must satisfy the Commission that the course ~~[must]:~~

(A) covers ~~[cover]~~ all topic and unit areas for the specific course subject required by the Act, Chapter 1102 and this chapter;

(B) devotes ~~[devote]~~ the time prescribed for each topic required by a course approval form adopted by the Commission;

(C) will be scheduled for the full clock hours of time for which credit is awarded and presented in full hourly units;

(D) does not have daily course segments that exceed 12 hours ~~[meet the requirements of §535.65 of this subchapter];~~

(E) will be delivered by one of the following delivery methods:

(i) classroom delivery ~~[method];~~

(ii) distance education ~~[alternative]~~ delivery ~~[method]; and~~

(iii) a combination of (i) and (ii), if[:]

~~[(H)]~~ at least 50% of the combined course is offered by classroom delivery ~~[method]; and~~

(F) include at a minimum, the following methods to assess a student's comprehension of the course material:

(i) topic quizzes, with at least three questions related to the subject matter of each course topic;

(ii) at least one scenario-based learning exercise per every increment of 10 credit hours or less; and

(iii) if the course is delivered by distance education delivery:

(I) Prevent the student from moving to the next topic until the student answers all topic quiz questions correctly and receives a passing grade on the scenario based learning exercises; and

(II) for quiz questions answered incorrectly, employ a method to present the rationale behind the correct answer and ask a subsequent related quiz question that will count toward passing the topic if answered correctly; and

(G) will have multiple versions of a final exam that:

(i) covers each topic required by the Act or Rules for the specific course;

(ii) does not contain any true/false questions;

(iii) for all qualifying courses other than a real estate math course:

(I) consists of at least two questions per credit course hour; and

(II) draws from a question bank consisting of at least six questions per credit course hour; and

(iv) for all qualifying real estate math courses, consists of at least 20 questions that are drawn from a question bank consisting of at least 60 questions.

~~[(H)] the portion of the combined course offered through alternative delivery is taken from a full course that has already been certified for alternative delivery by a distance learning certification center acceptable to the Commission;~~

~~[(iv) a correspondence course that is offered by a provider in association with an accredited college or university if the course is offered in accordance with the college or university's accreditation association's curriculum accreditation standards; or]~~

~~[(v) a combination of (i) and (iv), if:~~

~~(I) at least 50% of the combined course is offered by classroom method; and~~

~~(II) the combined course is offered by a provider in association with an accredited college or university in accordance with the college or university's accreditation association's curriculum accreditation standards;]~~

~~[(2) Using the name of the provider "in association with" the name of the college or university on the course completion certificate constitutes certification to the Commission that the course was offered in compliance with the college or university's accreditation association's curriculum accreditation standards.]~~

~~[(3) The Commission may submit a proposed qualifying real estate inspector course to the Texas Real Estate Inspector Committee for review and recommendation prior to approval of the course.]~~

(c) If the course is currently certified by a distance learning certification center acceptable to the Commission, the provider will be deemed to have met requirements for verification of clock/course hours and design for distance education delivery.

(d) Approval of currently approved courses by a subsequent provider.

(1) If a subsequent provider wants to offer a course currently approved for another provider, the subsequent provider must:

(A) submit the **[applicable]** course **application and approval forms [form(s)] including all materials required;**

(B) submit written authorization to the Commission from the **author or** provider for whom the course was initially approved granting permission for the subsequent provider to offer the course; and

(C) pay the fee required by §535.101 or §535.210 of this title.

(2) If approved to offer the previously approved course, the subsequent provider is required to:

(A) offer the course as originally approved, **including expiration date,** with any approved revisions, using all materials required for the course; and

(B) meet the requirements of §535.65 of this subchapter.

(e)[(d)] Required revision of a currently approved qualifying course.

(1) Providers are responsible for keeping current on changes to the Act and Commission Rules and must supplement materials for approved courses to present the current version of all applicable statutes and rules on or before the effective date of those statutes or rules.

(2) If the Commission adopts new requirements for a course, including but not limited to a course approval form that divides selected qualifying course subjects into topics and units, any provider currently offering a course on that subject must:

(A) revise and supplement any currently approved classroom qualifying course covering that subject no later than 12 months after the effective date of the new requirements;

(B) revise and supplement any currently approved qualifying course offered by **distance education [alternative]** delivery **[covering that subject and obtain recertification of the course by a distance learning certification center acceptable to the Commission]** no later than 15 months after the effective date of the new requirements;

(3) For each revised qualifying course, a provider must:

(A) submit the **applicable** course **application and approval forms [form(s)] including all materials required; and**

[(B) submit all revised materials, and if applicable, recertification; and]

(B)[(C)] pay the fee required by §535.101 or §535.210 of this title.

(4) A provider may not offer a currently approved course for qualifying credit after the deadlines established by this subsection following a required revision of a qualifying course.

(5) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(6) A revised course approved under this subsection expires four years from the date of approval of the revision.

(7) No later than 90 days before the effective date of a revised course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised course.

(8) If an approved provider fails to give the notice set out in paragraph (6) of this subsection, the provider shall allow the student to take the revised course at no additional charge.

(f)[(e)] Voluntary revision of a currently approved qualifying course.

(1) A provider who voluntarily revises a currently approved course, shall, prior to implementation of any course materials:

(A) file any updated course materials and revisions of the course outline with the Commission; and

(B) pay the fee required by §535.101 and §535.210 of this title.

(2) If after review the Commission is not satisfied with the updated course materials and revised course outline, the Commission may direct a provider to:

- (A) further revise the materials;
- (B) cease use of materials; or
- (C) withdraw a course text.

(3) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(4) A revised course approved under this subsection expires four years from the date of approval of the revision.

(5) No later than 90 days before the effective date of a revised course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised course.

(6) If an approved provider fails to give the notice set out in paragraph (5) of this subsection, the provider shall allow the student to take the revised course at no additional charge.

(g)~~(f)~~ Expiration of approval.

(1) Courses approved after January 1, 2011 are valid for four years from the date of approval.

(2) Courses approved before January 1, 2011 expire on December 31, 2015.

(3) Courses approved for use by a subsequent provider under subsection (c) expire on the same date that the originally approved course expires.

(4) Currently approved versions of a course expire 90 days after approval of a revised version of that course.

(h)~~(g)~~ Renewal of course approval. Not earlier than 90 days before the expiration of a course approval, a provider may obtain a renewal of course approval for another four year period by following the process and meeting the current standards for an initial course approval.

~~**(h) Timeframe for course approval. The Commission will approve a course as soon as reasonably practicable after a provider meets all the requirements set out in this section. For the purposes of this section, "reasonably practicable" means no sooner than the 30th day after the Commission receives all required documentation for approval as set out in this section.**~~

(i) (No change.)

535.63 Approval of Instructors of Qualifying ~~and Non-Elective CE~~ Courses

(a) (No change.)

(b) Standards for instructor approval. To be approved as an instructor by the Commission to teach real estate or real estate inspection qualifying courses, the applicant must meet the following standards:

(1) The applicant must satisfy the Commission as to:

(A) the applicant's honesty, trustworthiness, and integrity; and

(B) the person's competency in the subject matter to be taught and ability to teach effectively.

(2) Except as provided by paragraph (3) of this subsection, the applicant must possess the following qualifications:

(A) a college degree in the subject area or five years of **active [professional]** experience **as a license holder [in the subject area]** and three years of experience in teaching or training; **or [and]**

~~**(B) beginning January 1, 2016, a completion certificate from an adult education instructor training course of at least 8 hours that is acceptable to the Commission and dated within 5 years of the date of the application; or**~~

(B)~~(C)~~ the equivalent of **paragraph [paragraphs]** (2)(A) ~~(and (B))~~ of this subsection as determined by the Commission after consideration of the applicant's professional experience,

research, authorship, or other significant endeavors in real estate or real estate inspection; and [the subject area.]

(C)beginning January 1, 2016, provide a completion certificate from an adult education instructor training course of at least 8 hours that is acceptable to the Commission and dated within four years of the date of application.

(3) To be approved as an instructor of Texas Standards of Practice, Texas Standards of Practice/Legal/Ethics Update, or as an instructor of a ride along inspection course as defined in §535.218 of this title, an applicant must have five years of active licensure as a Texas professional inspector, and have:

(A) performed a minimum of 200 real estate inspections as a Texas professional inspector; or

(B) three years of experience in teaching and/or sponsoring trainees or inspectors.

(c) Approval notice. An applicant shall not act as or represent that the applicant is [itself-to-be] an approved instructor until the applicant has received written notice of the approval from the Commission to teach specified course.

~~[(d) Certification required to teach real estate non-elective CE courses.~~

~~(1) An applicant may not teach a real estate non-elective CE course until the applicant has:~~

~~(A) been approved as an instructor of qualifying courses; and~~

~~(B) received written certification from the Commission to teach a specific non-elective continuing education course.~~

~~(2) To obtain certification to teach a real estate non-elective continuing education course, the applicant must:~~

~~(A) be currently approved by the Commission as an instructor for qualifying courses in the subject areas of Principles of Real Estate, Law of Agency and Law of Contracts to teach Legal or Ethics Update; or~~

~~(B) be currently approved by the Commission as an instructor of qualifying courses in the subject areas of Principles of Real Estate, Law of Agency, Law of Contracts and Real Estate Brokerage to teach Broker Responsibility; and~~

~~(C) successfully complete an instructor training program approved by the Commission for the non-elective continuing education course for which certification is sought.~~

~~(3) A previously certified instructor must be recertified to teach a non-elective course whenever the previous course has expired and a new course has been approved.~~

~~(4) An instructor's certification to teach a legal or ethics update course expires on December 31 of every odd-numbered year.~~

~~(5) An instructor's certification to teach the broker responsibility course expires on December 31 of every even-numbered year.]~~

(d)[(e)] Period of [initial] approval. The [initial] approval of an [a] instructor is valid for two years.

(e)[(f)] Disapproval of an application.

(1) If the Commission determines that an applicant does not meet the standards for approval, the Commission shall disapprove the application and provide written notice of the disapproval to the applicant.

(2) The disapproval notice, applicant's request for a hearing on the disapproval, and any hearing are governed by the Administrative Procedure Act, Texas Government Code, Chapter 2001, and Chapter 533 of this title (relating to Practice and Procedure). Venue for any hearing conducted under this section shall be in Travis County.

(f)[(g)] Subsequent approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, an approved instructor may apply for subsequent approval [renewal] for another two year period.

(2) Approval or disapproval of a subsequent approval [renewal] shall be subject to the standards for initial applications set out in this [the] section.

535.64 Content Requirements for Qualifying Real Estate Courses

(a) Mandatory qualifying courses. To be approved by the Commission, the following mandatory qualifying courses must contain the content outlined below:

(1) Principles of Real Estate I, which shall contain the following topics, the units of which are outlined in the PRINS 1-0, Qualifying Real Estate Course Approval Form, Principles of Real Estate I, hereby adopted by reference:

- (A) Introduction to Modern Real Estate Practice - 200 minutes;
 - (B) Real Property - 60 minutes;
 - (C) Concepts and Responsibilities of Home Ownership - 95 minutes;
 - (D) Real Estate Brokerage and the Law of Agency - 180 minutes;
 - (E) Fair Housing Laws - 150 minutes;
 - (F) Ethics of Practice as a License Holder - 30 minutes;
 - (G) Texas Real Estate License Act - 180 minutes;
 - (H) Legal Descriptions - 100 minutes;
 - (I) Real Estate Contracts - 135 minutes;
 - (J) Interests in Real Estate - 180 minutes;
 - (K) How Home Ownership is Held - 70 minutes;
- and

(L) Listing Agreements - 120 minutes.

(2) Principles of Real Estate II, which shall contain the following topics, the units of which are outlined in the PRINS 2-0, Qualifying Real Estate Course Approval Form, Principles of Real Estate II, hereby adopted by reference:

- (A) Real Estate Math - 200 minutes;
 - (B) Real Estate Appraisal - 200 minutes;
 - (C) Real Estate Financing Principles - 210 minutes;
 - (D) Control of Land Use - 115 minutes;
 - (E) Specializations - 50 minutes;
 - (F) Real Estate Investments - 110 minutes;
 - (G) Leases - 95 minutes;
 - (H) Property Management - 120 minutes;
 - (I) Estates, Transfers, and Titles - 200 minutes;
- and
- (J) Closing Procedures/Closing the Real Estate Transaction - 200 minutes.

~~[(3) A combined 60-hour course approved by the Commission, consisting of both Principles of Real Estate I and II, which includes the topics for each course as outlined by this section.]~~

[3] [(4)] Law of Agency, which shall contain the following topics, the units of which are outlined in

the LOA-0, Qualifying Real Estate Course Approval Form, Law of, hereby adopted by reference:

- (A) Agency Concepts - 130 minutes;
- (B) Basic Agency Relationships, Disclosure & Duties to Client - 125 minutes;
- (C) Duties and Disclosures to Third Parties - 125 minutes;
- (D) Seller Agency - 120 minutes;
- (E) Buyer Agency - 150 minutes;
- (F) Representing More than one Party in a Transaction: Intermediary Brokerage - 165 minutes;
- (G) Creation and Termination of Agency - 85 minutes;
- (H) Clarifying Agency Relationships - 45 minutes;
- (I) Employment Issues - 120 minutes;
- (J) Agency, Ethics and the Law - 155 minutes;
- (K) Deceptive Trade Practices & Consumer Protection Act - 140 minutes; and
- (L) Implementation and Presentation - 140 minutes.

[4] [(5)] Law of Contracts, which shall contain the following topics, the units of which are outlined in the LOC-0, Qualifying Real Estate Course Approval Form, Law of Contracts, hereby adopted by reference:

- (A) Texas Contract Law - 155 minutes;
- (B) Basics of Real Estate Law - 115 minutes;
- (C) Introduction to Contracts - 75 minutes;
- (D) Ownership Rights and Limitations - 120 minutes;
- (E) Contracts Used in Real Estate - 275 minutes;
- (F) The Sales Contract - 135 minutes;
- (G) Contingencies, Addenda and Amendments - 105 minutes;
- (H) Financing Real Estate - 235 minutes;
- (I) Conveyance of Title - 90 minutes;
- (J) Transaction Process and Closing - 135 minutes; and
- (K) Common Contract Mistakes - 60 minutes.

[5] [(6)] Promulgated Contract Forms, which shall contain the following topics, the units of which are outlined in the PCF-0, Qualifying Real Estate Course Approval Form, Promulgated Contract Forms, hereby adopted by reference:

- (A) Contract Law Overview - 155 minutes;

- (B) Laws, Rules and Regulations - 150 minutes;
- (C) Parties, Properties and Financing - 155 minutes;
- (D) Covenants, Commitments and Notices - 160 minutes;
- (E) Closing, Possession and More - 220 minutes;
- (F) The Remaining Promulgated Forms - 205 minutes;
- (G) Promulgated Addenda, Notices and Other Forms - 205 minutes;
- (H) Other Real Estate Matters - 115 minutes; and
- (I) Practice Makes Perfect - 135 minutes.

~~[(7) A combined 60 hour course approved by the Commission, consisting of both Law of Contracts and Promulgated Contract Forms, which includes the topics for each course as outlined by this section.]~~

~~(6)~~ [(8)] Real Estate Finance, which shall contain the following topics, the units of which are outlined in the REF-0, Qualifying Real Estate Course Approval Form, Real Estate Finance, hereby adopted by reference:

- (A) The Nature & Cycle of Real Estate Finance - 105 minutes;
- (B) Money & the Monetary System - 100 minutes;
- (C) Additional Government Influence - 200 minutes;
- (D) The Secondary Mortgage Market - 95 minutes;
- (E) Sources of Funds - 110 minutes;
- (F) Instruments of Real Estate Finance - 170 minutes;
- (G) Loan Types, Terms & Issues - 200 minutes;
- (H) Government Loans - 215 minutes;
- (I) Lender Loan Processes - 220 minutes;
- (J) Defaults & Foreclosures - 85 minutes.

(7) Real Estate Brokerage (mandatory for a broker's license) which shall contain the following topics, the units of which are outlined in the REF-0, Qualifying Real Estate Course Approval Form, Real Estate Brokerage, hereby adopted by reference:

- (A) The Real Estate Industry - 30 minutes;
- (B) Starting a Brokerage Business - 110 minutes;

(C) Ethical & Legal Business Practices – 300 minutes

(D) Analyzing the Market & the Competition – 110 minutes

(E) Managing Risk – 110 minutes;

(F) Financing Your Business – 110 minutes;

(G) Negotiating a Commercial Lease – 100 minutes;

(H) The Marketing Plan – 150 minutes;

(I) Management Style & Structure – 100 minutes;

(J) Recruiting & Hiring – 100 minutes;

(K) Professional Brokerage Competency & Associate License Holder Productivity – 180 minutes;

(L) Evaluating the Business – 50 minutes;

(M) Growth Opportunities – 50 minutes.

(b)-(d) (No change.)

535.65 Responsibilities and Operations of Providers of Qualifying Courses

(a) Responsibility of Providers.

(1) A provider is responsible for:

(A) the administration of each course, including, but not limited to, compliance with any prescribed period of time for any required course topics required by the Act, Chapter 1102, and Commission rules;

(B) maintaining student attendance records;

(C) verifying instructor qualification, performance and attendance;

(D) proper examination administration;

(E) validation of student identity acceptable to the Commission;

(F) maintaining student course completion records;

(G) ensuring all advertising complies with subsection (c);

(H) ensuring that instructors or other persons do not recruit or solicit prospective salespersons, brokers or inspectors during course presentation; and

(I) ensuring staff is reasonably available for public inquiry and assistance. ~~;~~

~~[(J) ensuring that its classroom facilities are adequate for class size and pose no threat to the health or safety of students;]~~

~~[(K) ensuring that each student is present for the course for the hours of time for which credit is awarded.]~~

(2) A provider may not promote the sale of goods or services during the presentation of a course.

(3) A provider may remove a student and not award credit if a student does not participate in class, or disrupts the orderly conduct of a class, after being warned by the provider or the instructor.

(4) If a provider approved by the Commission does not maintain a fixed office in Texas for the duration of the provider's approval to offer courses, the provider shall designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas that the provider is required to maintain by this section. A power-of-attorney designating the resident must be filed with the Commission in a form acceptable to the Commission.

(b) Use of approved Instructor.

(1) Except as provided by this subsection, a provider must use an instructor that is currently approved by the Commission to teach the specified course;

(2) Each instructor shall be selected on the basis of expertise in the subject area of instruction and ability as an instructor;

(3) A provider shall require specialized training or work experience for instructors teaching specialized subjects such as law, appraisal, investments, taxation or home inspection;

(4) An instructor shall teach a course in substantially the same manner represented to the Commission in the instructor's manual or other documents filed with the application for course approval form; and

(5) A provider may use the services of a guest instructor who is not approved as an instructor by the Commission for qualifying real estate or inspector courses provided that person instructs for no more than 10% of the total course time.

(c) Advertising.

(1) The following practices are prohibited:

(A) using any advertising which does not clearly and conspicuously contain the provider's name on the first page or screen of the advertising;

(B) representing that the provider's program is the only vehicle by which a person may satisfy educational requirements;

(C) conveying a false impression of the provider's size, superiority, importance, location, equipment or facilities, except that a provider may use objective information published by the Commission regarding pass rates;

(D) promoting the provider directly or indirectly as a job placement agency, unless the provider is participating in a program recognized by federal, state, or local government and is providing job placement services to the extent the services are required by the program; ~~[or]~~

(E) making any statement which is misleading, likely to deceive the public, or which in any manner tends to create a misleading impression; ~~[or]~~

(F) advertising a course under a course name other than the course name approved by the Commission; or

(G) advertising using a name that implies the course or course provider is the Texas Real Estate Commission, including use of the acronym "TREC", in all or part of the course or course provider's name.

(2) Any written advertisement by a provider that includes a fee that the provider charges for a course must display all fees that the provider charges for the course in the same place in the advertisement and with the same degree of prominence.

(3) The provider shall advertise a course for the full clock hours of time for which credit is awarded.

(4) The provider is responsible for and subject to sanctions for any violation of this subsection by any affiliate or other third party marketer or web hosting site associated with or used by the provider.

(d)-(e) (No change.)

(f) Course materials.

(1) Before the course starts, a provider shall give each student copies of or provide online access to any materials to be used for the course.

(2) A provider shall update course materials to ensure that current and accurate information is provided to students as provided for under §535.62 of this subchapter.

(g) Presentation of courses.

(1) Classroom Delivery:

(A) The location for the course must be:

(i) ~~offered in a location~~ conducive to instruction, such as a classroom, training room, conference room, or assembly hall that is separate and apart from work areas;

(ii) adequate for the class size;

(iii) pose no threat to the health or safety of students; and

(iv) allow the instructor to see and hear each student and the students to see and hear the instructor, including when offered through the use of technology.

(B) The provider must:

(i) check the photo identification of each student at class sign up and when signing in for each subsequent meeting of the class;

(ii) ensure the student is present for the course for the hours of time for which credit is awarded;

(iii) provide a 10 minute break per hour at least every two hours; and

(iv) not have daily course segments that exceed 12 hours.

~~[(B) The course must be scheduled for the full clock hours of time for which credit is awarded;]~~

(C) Makeup Session for Classroom Courses.

(i) A provider may permit a student who attends at least two-thirds of an originally scheduled qualifying course to complete a makeup session to satisfy attendance requirements.

(ii) A member of the provider's staff must approve the makeup procedure to be followed. Acceptable makeup procedures are:

(I) attendance in corresponding class sessions in a subsequent offering of the same course; or

(II) the supervised presentation by audio or video recording of the class sessions actually missed.

(iii) A student shall complete all class makeup sessions no later than the 90th day after the date of the completion of the original course.

(iv) Dropped status may not be changed by makeup sessions, and any hours accumulated by a student may not be transferred to any other course, prior to being dropped from a course.

(v) A student who attends less than two-thirds of the originally scheduled qualifying course is not eligible to complete a makeup session. The student shall automatically be dropped from the course with no credit and the provider shall report the student's status to the Commission.

~~[(C) Course presentation per day cannot exceed 10 hours;]~~

~~[(D) A 10 minute break per hour must be given at least every two hours.]~~

(2) Distance Education [Alternative] Delivery [and Correspondence]:

(A) the provider must ensure that:

(i) the student taking all topics of the course and completing all quizzes and exercises is the student receiving credit for the course through a validation process that meets guidelines approved by the Commission;

(ii) ~~(i)~~ an approved instructor ~~[that a qualified person]~~ is available to answer students' questions or provide assistance as necessary in a timely manner; ~~[and]~~

(iii) ~~(ii) that~~ a student has completed all instructional modules and attended any hours of live instruction required for a given course; ~~[and]~~

(iv) ~~(B)~~ an approved instructor is ~~[or the provider's coordinator or director must be]~~ responsible for providing answers and rationale for the grading of the written course work; and

(v) a course completion certificate is not issued to the student until at least twice the number of hours for which course credit is given has elapsed since the student registered for the course.

(3) A provider is not required to present topics and units in the order outlined for a course on the corresponding course approval form.

(4) The periods of time prescribed to each unit of a topic for a qualifying course as outlined on the corresponding course approval form are recommendations and may be altered to allow instructors flexibility to meet the particular needs of their students.

~~[(h) Makeup Session.~~

~~-(1) A provider may permit a student who attends at least two-thirds of a originally scheduled qualifying course to complete a makeup session to satisfy attendance requirements.~~

~~-(2) A member of the provider's staff must approve the makeup procedure to be followed. Acceptable makeup procedures are:~~

~~—(A) attendance in corresponding class sessions in a subsequent offering of the same course; or~~

~~—(B) the supervised presentation by audio or video recording of the class sessions actually missed.~~

~~-(3) A student shall complete all class makeup sessions no later than the 90th day after the date of the completion of the original course.~~

~~(4) Dropped status may not be changed by makeup sessions, and any hours accumulated by a student may not be transferred to any other course, prior to being dropped from a course.~~

~~(5) A student who attends less than two-thirds of the originally scheduled qualifying course is not eligible to complete a makeup session. The student shall be automatically dropped from the course with no credit and the provider shall report the student's status to the Commission.]~~

[(h) [(i)] Course examinations.

(1) The final examination given at the end of each course must be given in a form and with questions [the examination] that were [was] submitted to the Commission with the course approval form.

~~[(2) Each topic required by the Act or Rules for a qualifying course must be covered in the final examination for that course.]~~

~~[(3) Unless otherwise provided for in this section, a provider shall use final course examinations~~

~~consisting of at least 60 questions with an unweighted passing score of 70%.]~~

~~[(4) Real estate math qualifying course examinations may consist of a minimum of 20 questions with an unweighted passing score of 70%.]~~

[(2) [(5)] Final examination questions must be kept confidential and be significantly different from any quizzes and exercises [questions] used ~~[for diagnostic assessment of units]~~ in the course.

[(3) [(6)] A provider shall not permit a student to view or take a final examination before the completion of regular course work and any makeup sessions required by this section.

[(4) [(7)] Examinations must ~~[be:]~~

(A) comply with the requirements of 535.62 (G);
(B) require an unweighted passing score of 70%;
and

(C) [(A)] be proctored by a member of the provider faculty or staff, or third party proctor acceptable to the Commission, who is present at the test site or able to observe the student through the use of technology, and has positively identified that the student [students] taking the examination is [are] the student [students] registered for and who took the course. ~~[; or]~~

~~[(B) administered using a computer under conditions that satisfy the Commission that the student taking the examination is the student who took the course.]~~

~~[(8) A provider shall revise final course examinations for all active qualifying courses at least annually.]~~

[(5) The following are acceptable third party proctors:

(A) employees at official testing or learning/tutoring centers;

(B) certified librarians at a school, university, or public library;

(C) college or university administrators, instructors, or academic advisors;

(D) clergy who can be identified with a specific temple, synagogue, mosque, or church; and

(E) educational officers of a corporation, military installation, or correctional facility.

(6)~~(9)~~ A provider may not give credit to a student who fails a final examination and makeup final examination.

(j) Makeup final course examination.

(1) If a student fails a final course examination, a provider may permit the student to retake the final examination only once and only after the student has:

(A) waited at least **three** ~~seven~~ calendar days; and

(B) completed any additional course work prescribed by the provider.

(2) A student shall complete a makeup final examination no later than the 90th day after the date the original class concludes **and the second examination must be significantly different from the first examination.**

(3) If a student fails to timely complete the makeup final examination as required by this subsection, the student shall be automatically dropped from the course with no credit.

(4) A student who fails the final course examination a second time is required to retake the course prior to retaking the final course examination.

(k) Course completion certificate.

(1) Upon successful completion of a core course, a provider shall issue a course completion certificate that a student can submit to the Commission. The course completion certificate shall show:

(A) the provider's name **and approval number**;

(B) the instructor's name and **instructor license** ~~approval~~ number assigned by the Commission;

(C) the course title;

(D) course numbers ~~[, including any Commission pre-approval number received]~~;

(E) the number of classroom **credit** hours;

(F) the dates the student **registered for**, began and completed the course; and

(G) printed name and signature of an official of the provider on record with the Commission.

(2) A provider may withhold any official completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(3) A provider shall maintain adequate security against forgery for official completion documentation required by this subsection.

(l) Instructor and course evaluations.

(1) A provider shall provide each student enrolled in a course with an instructor and course evaluation form and provide a link to an online version of the form that a student can complete and submit any time after course completion.

(2) An instructor may not be present when a student is completing the evaluation form and may not be involved in any manner with the evaluation process.

(3) **When** ~~[At a minimum, when]~~ evaluating an instructor or course, a provider shall use **the** ~~[an]~~ evaluation form approved by the Commission. **A provider may also add additional questions to the end of the Commission evaluation form or request the students to also complete the provider's evaluation form.**

(4) A provider shall maintain any comments made by the provider's management relevant to instructor or course evaluations with the provider's records.

(5) At the Commission's request, a provider shall produce instructor and course evaluation forms for inspection by Commission staff.

(m) Maintenance of records for a provider of qualifying courses.

(1) A provider shall maintain records of each student enrolled in a course for a minimum of four years following completion of the course, including course and instructor evaluations and student enrollment agreements.

(2) A provider shall maintain financial records sufficient to reflect at any time the financial condition of the school.

(3) A school's financial statement and balance sheets must be available for audit by Commission staff, and the Commission may require presentation of financial statements or other financial records.

(4) All records may be maintained electronically but must be in a common format that is legibly and easily printed or viewed without additional manipulation or special software.

(n) Changes in Ownership or Operation of an approved provider of qualifying courses.

(1) An approved provider shall obtain the approval of the Commission at least 30 days in advance of any material change in the operation of the provider, including but not limited to changes in:

- (A) ownership;
- (B) management; and

(C) the location of main office and any other locations where courses are offered.

(2) An approved provider, upon transfer to the new owner, must meet the financial review standards imposed by §535.61 of this subchapter.

(3) An approved provider requesting approval of a change in ownership shall provide all of the following information or documents to the Commission:

(A) a new bond of \$20,000 for the proposed new owner, a statement from the bonding company indicating that the former bond will transfer to the proposed new owner, or other security acceptable to the Commission under §1101.302 of the Act;

(B) an Education Provider Application reflecting all required information for each proposed new owner; **[and]**

(C) a Principal Information Form for each proposed new owner who would hold at least a 10% interest in the school; **and[-]**

(D) pay the fee required by §535.101 or §535.210 of this title.

535.66 Credit for Course Offered by Accredited Colleges or Universities

(a)-(b) (No change.)

(c) Credit for real estate courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university must meet the following requirements:

(1) cover the subject and topics set out in §1101.003 of Tex. Occ. Code as clarified by the Commission in §535.64; and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association for

verification of clock/course hours, design and delivery method.

(d) Credit for real estate inspector courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university meet the following requirements:

(1) meet the subject and topic definitions set out in §1102.001(5) of Tex. Occ. Code as clarified by the Commission in §535.213; and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association for verification of clock/course hours, design and delivery method.

(3) any courses offered to fulfill the substitute experience requirements allowed under §1102.111 must meet the requirements set out in §535.212 of this title, including instructor qualifications.

(e) (No change.)

(f) Required approval of qualifying courses not offered under subsections (c) or (d) or that are not subject to academic accreditation standards.

(1) To be eligible for credit from the Commission, a qualifying course offered by an accredited college and university ~~[on its own or in association with a third-party provider approved by the Commission]~~ that is not offered under subsections (c) or (d) or that is not subject to academic accreditation standards is required to be submitted for approval by the Commission in accordance with §535.62 of this subchapter, including payment of any fee required.

(2) An accredited college or university may not represent that a course qualifies for credit by the Commission unless the accredited college or university receives written confirmation from the Commission that the course has been approved.

(g)-(h) (No change.)

535.67 Qualifying Education: Compliance and Enforcement (No change.)



PROPOSED RULE ACTION FROM THE AUGUST 17, 2015, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS

Subchapter G. Requirements for Continuing Education Providers, Courses and Instructors

535.70 Definitions

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

~~(1) Alternative delivery--A method of course delivery other than classroom delivery where the course has been certified by a distance learning certification center acceptable to the Commission.~~

~~(1)(2)~~ Applicant--A person seeking accreditation or approval to be a continuing education provider or instructor.

~~(2)(3)~~ CE Instructor--A person approved by the Commission to teach continuing education courses.

~~(3)(4)~~ CE Provider--Any person approved by the Commission; or specifically exempt by the Act, Chapter 1102, Texas Occupation Code, or Commission rule; that offers a course for which continuing education credit may be granted by the Commission to a license holder or applicant.

~~(4)(5)~~ Classroom delivery--A method of course delivery where the instructor and students interact face to face and in real time, in either the same physical location, or through the use of technology.

~~(5)(6)~~ Distance Education [Correspondence] delivery--A method of course delivery other than classroom delivery, including alternative delivery and correspondence delivery. ~~[where the course has not been certified by a distance learning certification center acceptable to the Commission.]~~

~~(6)(7)~~ Elective CE course--A continuing education course, other than a Non-elective CE course, approved by the Commission as acceptable to fulfil the continuing education hours needed to renew a license.

~~(7)(8)~~ Non-elective CE course--A continuing education course, for which the subject matter of the course is specifically mandated by the Act, Chapter 1102, or Commission rule, that a license holder is required to take prior to renewal of a license.

~~(8)(9)~~ Person--Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

535.71 Approval of CE Providers

(a)-(f) (No change.)

(g) Subsequent approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for subsequent approval [renewal] for another two year period.

(2) Approval or disapproval of a subsequent [renewal] application shall be subject to the standards for initial applications for approval set out in this section.

535.72 Approval of Non-elective Continuing Education Courses

(a) (No change.)

(b) Application for approval to offer non-elective real estate CE courses.

(1) A CE provider seeking to offer a specific non-elective real estate CE course as outlined in this section shall:

(A) submit a [Non-Elective] CE Course Application Supplement to the Commission; and

(B) pay the fee required by §535.101 of this title.

(2) A provider may file a single [separate] application for a CE course offered through multiple ~~[is required for each course]~~ delivery methods. [method] A fee is required for content review of each CE course and for each distinct

delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved CE course must submit a new application, and pay all required fees, including a fee for content review.

~~(4)~~(3) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(c) Real estate non-elective CE courses. Every two years, the Commission shall approve subject matter and course materials to be used for the following non-elective real estate continuing education courses as required by the Act:

(1) a four ~~[three]~~ hour Legal ~~[legal]~~ Update ~~[update]~~ I: Laws, Rules and Forms course;

(2) a four ~~[three]~~ hour Legal Update II: Agency, Ethics and Hot Topics ~~[ethics]~~ course; and

(3) a six hour broker responsibility course.

(d) Course expiration.

(1) Each legal update ~~[and ethics]~~ course expires on December 31 of each odd-numbered year.

(2) Each broker responsibility course expires on December 31 of each even-numbered year.

(3) A CE provider must use a CE instructor who has received certification to teach the version of the real estate non-elective CE course being offered.

(e) Application for approval to offer non-elective inspector CE courses.

(1) A CE provider seeking to offer a specific non-elective inspector CE course as outlined in this section shall:

(A) submit:

(i) ICE Course Application form and the Texas Standards of Practice/Legal/Ethics Update Course approval form (PIEAC-SP_LEU-1); or

(ii) Qualifying Real Estate (or Inspector) Qualifying Course Application form and the Texas Standards of Practice/Legal/Ethics Update course approval form (PIEAC-SP_LEU-1); and

(B) pay the fee required by §535.210 of this title.

(2) A separate application is required for each course delivery method.

(f) (No change.)

(g) Delivery method.

(1) Non-elective CE courses must ~~[meet the requirements of §535.75 of this subchapter and]~~ be delivered by one of the following delivery methods:

(A) classroom delivery ~~[method]~~;

(B) distance education ~~[alternative]~~ delivery ~~[method]~~; or

(C) a combination of (A) and (B), if~~;~~:

~~[(i) at least 50% of the combined course is offered by classroom~~ delivery. ~~[method; and]~~

~~[(ii) the portion of the combined course offered through alternative delivery is taken from a full course that has already been certified for alternative delivery by a distance learning certification center acceptable to the Commission;]~~

~~[(D) a correspondence course that is offered by a provider in association with an accredited college or university if the course is offered in accordance with the college or university's accreditation association's curriculum accreditation standards; or]~~

~~[(E) a combination of (A) and (D), if:]~~

~~[(i) at least 50% of the combined course is offered by classroom method; and]~~

~~[(ii) the combined course is offered by a provider in association with an accredited college or university in accordance with the college or university's accreditation association's curriculum accreditation standards.]~~

~~[(2) Using the name of the provider "in association with" the name of the college or university on the course completion certificate constitutes certification to the Commission that the course was offered in compliance with the college or university's accreditation association's curriculum accreditation standards.]~~

(h)~~(3)~~ Except as provided in this section, non-elective ~~[Non-elective]~~ CE courses must meet the presentation requirements of §535.65(g) ~~[§535.65]~~ of this title. ~~[; and]~~

(1) Classroom Delivery. The provider must submit a course completion roster in accordance with §535.75(c).

(2) Distance Education Delivery:

(A) Non-elective real estate courses are designed by the Commission for interactive classroom delivery. Acceptable demonstration of a method to engage distance education delivery students in interactive discussions and group activities, as well as additional material to meet the course objectives and time requirements are required for approval.

(B) The provider must submit a course completion roster in accordance with §535.75(c).

~~[(4) Non-elective CE courses meet the examination requirements of §535.75 of this subchapter.]~~

(i) Course examinations.

(1) A provider must administer a final examination promulgated by the Commission for non-elective CE courses beginning January 1, 2017 as follows:

(A) For classroom delivery, the examination will be given as a part of class instruction with the correct answers being reviewed by the instructor and students will not be graded;

(B) For distance education delivery, the examination will be given after completion of regular course work and must be:

(i) proctored by a member of the provider faculty or staff, or third party proctor set out in §535.65(i)(5) of this title, who is present at the test site and has positively identified that the student taking the examination is the student registered for and who took the course; or

(ii) administered using a computer under conditions that satisfy the Commission that the student taking the examination is the student registered for and who took the course;

(iii) graded with a pass rate of 70% in order for a student to receive credit for the course; and

(iv) kept confidential.

(2) A provider may not give credit to a student who fails a final examination and makeup final examination.

(j) Makeup final course examination.

(1) If a student fails a final course examination, a provider may permit the student to retake the final examination only once.

(2) A student shall complete a makeup final examination no later than the 30th day after the date the original class concludes, and the second examination must be different from the first examination.

(3) A student who fails the final course examination a second time is required to retake the course prior to retaking the final course examination.

~~(k)(H)~~ Approval of currently approved courses by a subsequent provider.

(1) If a CE provider wants to offer a course currently approved for another provider, that subsequent provider must:

(A) submit the CE [applicable] course application supplement [approval] form(s);

(B) submit written authorization to the Commission from the author or provider for whom the course was initially approved granting permission for the subsequent provider to offer the course; and

(C) pay the fee required by §535.101 or §535.210 of this title.

(2) If approved to offer the currently approved course, the subsequent provider is required to:

(A) offer the course as originally approved, including expiration date, with any approved revisions, using all materials required for the course; and

(B) meet the requirements of §535.75 of this subchapter.

~~(l)(H)~~ Approval notice. A CE Provider shall not offer non-elective continuing education courses until the provider has received written notice of the approval from the Commission.

~~(m)(H)~~ Required revision of a currently approved non-elective CE course. Providers are responsible for keeping current on changes to the Act and Commission Rules and must supplement materials for approved non-elective CE courses to present the current version of all applicable statutes and rules on or before the effective date of those statutes or rules.

535.73 Approval of Elective Continuing Education Courses

(a) (No change.)

(b) Application for approval of an elective CE course.

(1) For each continuing education course an applicant intends to offer, the applicant must:

(A) submit the appropriate CE Course Application form; **and**

(B) pay the fee required by §535.101 and §535.210 of this title.

(2) A provider may file a single application for a CE course offered through multiple delivery methods. A fee is required for content review of each CE course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved CE course must submit a new application and pay all required fees, including a fee for content review.

(4)~~(2)~~ The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(c) Standards for course approval of elective CE course.

(1) To be approved as **an [a]** elective CE course by the Commission, the course must:

(A) cover subject matter appropriate for a continuing education course for real estate or real estate inspection license holders; **and**

(B) be current and accurate; **and [.]**

(C) be at least one and no more than 10 hours long.

(2) A provider **must [can]** demonstrate that a course meets the requirements under paragraph (1) of this subsection by submitting a statement describing the objective of the course and **the relevance of [how]** the subject matter **[is related]** to activities **for which a real estate or inspector [a]** license **[holder]** is required **[to meet]**, including but not limited to relevant issues in the real estate

market or topics which increase or support the license holder's development of skill and competence.

(3) The course must be presented in full hourly units.

(4) The course must be delivered by one of the following **delivery methods**:

(A) classroom **delivery [method]**;

(B) **distance education [alternative]** delivery **[method]**; **or**

(C) a combination of (A) and (B), if:

~~[(i)] at least 50% of the combined course is offered by classroom **delivery. [method; and]~~**

~~[(ii) the portion of the combined course offered through alternative delivery is taken from a full course that has already been certified for alternative delivery by a distance learning certification center acceptable to the Commission; or]~~

~~[(D) a correspondence course that is offered by a provider in association with an accredited college or university if the course is offered in accordance with the college or university's curriculum accreditation standards. Using the name of the provider "in association with" the name of the college or university on the course completion certificate constitutes certification to the Commission that the course was offered in compliance with the college or university's curriculum accreditation standards under this subsection.]~~

~~[(5) Elective CE courses meet the presentation requirements of §535.65 of this title; and]~~

~~[(6) Elective CE courses meet the examination requirements of §535.75 of this subchapter.]~~

(d)-(e) (No change.)

535.74 Approval of Continuing Education Instructors ~~[for Elective Courses]~~

~~[(a) General requirements.~~

~~(1) This subsection applies to a person seeking approval from the Commission to be an elective CE course instructor.~~

~~(2) Non-elective CE course instructors are approved and regulated under §535.63 of this title.]~~

~~(a)~~ [(b)] Application for approval.

(1) A person desiring to be approved by the Commission to be an instructor for elective real estate or real estate inspection CE courses shall:

(A) file an application on the appropriate form approved by the Commission; and

(B) pay the fee the required by §535.101 or §535.210 of this title.

(2) The Commission may:

(A) request additional information be provided to the Commission relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request.

(b) Certification required to teach real estate non-elective CE courses.

(1) An applicant may not teach a real estate non-elective CE course until the application has received written certification from the Commission to teach a specific non-elective continuing education course.

(2) To obtain certification to teach a real estate non-elective CE course, the applicant must:

(A) be currently approved by the Commission as an instructor for qualifying courses under §535.63 in the subject areas of:

(i) Principles of Real Estate, Law of Agency and Law of Contracts to teach Legal Update I and II; or

(ii) Principles of Real Estate, Law of Agency, Law of Contracts and Real Estate Brokerage to teach Broker Responsibility;

(B) successfully complete an instructor training program approved by the Commission for the non-elective CE course for which certification is sought; and

(C) receive a passing grade of at least 80% on the course final examination promulgated by the Commission.

(3) A previously certified instructor must be recertified to teach a non-elective CE course whenever the previous course has expired and a new course has been approved.

(4) An instructor's certification to teach a legal update course expires on December 31 of every odd-numbered year.

(5) An instructor's certification to teach the broker responsibility course expires on December 31 of every even-numbered year.

(c) to be approved as an instructor of Texas Standards of Practice/Legal/Ethics Update, or as an instructor of a ride along inspection course as defined in §535.218 of this title, an applicant must have five years of active licensure as a Texas professional inspector, and have:

(A) performed a minimum of 200 real estate inspections as a Texas professional inspector; or

(B) three years of experience in teaching and/or sponsoring trainees or inspectors.

(d) Approval notice. An applicant shall not act as or represent itself to be an approved real estate inspection instructor until the applicant has received written notice of the approval from the Commission.

~~(e)~~ [(e)] Standards for instructor approval for continuing elective education courses. To be approved as an instructor by the Commission to teach real estate or real estate inspection elective CE ~~[continuing education]~~ courses, the applicant must satisfy the Commission ~~[commission]~~ as to:

(1) the applicant's honesty, trustworthiness, and integrity; and

(2) the person's competency in the subject matter to be taught and ability to teach effectively.

~~(f)~~ [(f)] Approval notice. An applicant shall not act as or represent itself to be an approved elective CE instructor until the applicant has received written notice of the approval from the Commission.

~~(g)~~ [(g)] Period of ~~[initial]~~ approval. The ~~[initial]~~ approval of an elective CE instructor is valid for two years.

~~(h)~~ [(h)] Disapproval of an application.

(1) If the Commission determines that an applicant does not meet the standards for approval, the Commission shall disapprove the application and provide written notice of the disapproval to the applicant.

(2) The disapproval notice, applicant's request for a hearing on the disapproval, and any hearing are governed by the Administrative Procedure Act, Texas Government Code, Chapter 2001, and Chapter 533 of this title (relating to Practice and

Procedure). Venue for any hearing conducted under this section shall be in Travis County.

(i) ~~(g)~~ Subsequent approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, a CE instructor may apply for **approval [renewal]** for another two year period.

(2) Approval or disapproval of a **subsequent [renewal]** application shall be subject to the standards for initial applications for approval set out in the section.

535.75 Responsibilities and Operations of Continuing Education Providers

(a)-(b) (No change.)

(c) CE course examinations. Examinations are only required for CE courses offered through **distance education [alternative—delivery—or correspondence]** delivery and must comply with the requirements in **§535.72(i)(1)(B) [~~§535.66~~]** of **this section and have a minimum of four questions per course credit hour [title]**.

(d) Course completion roster. Instead of providing a course completion certificate, upon completion of a course, a CE provider shall submit a class roster to the Commission as outlined by this subsection.

(1) Classroom:

(A) A provider shall submit to the Commission a class roster in a format approved by the Commission not later than the 10th day after the date a course is completed.

(B) A course completion roster shall include:

(i) the provider's name **and license**;

(ii) a list of all instructors whose services were used in the course;

(iii) the course title;

(iv) course numbers **[,—including—any Commission pre-approval number received]**;

(v) the number of classroom **credit** hours **[,—or other recognized educational unit involved in the course]**;

(vi) the date of issuance;

(vii) the dates the student **registered for**, began and completed the course; and

(viii) the signature of an authorized representative of the provider who was in

attendance and for whom an authorized signature is on file with the Commission.

(C) The Commission shall not accept signature stamps or unsigned course completion rosters.

(2) **Distance Education [Alternative—or correspondence]** delivery **method [methods]**. A provider shall submit **a Distance Education [an Alternative/Correspondence]** Instructional Methods Reporting form **[,—or—information contained in that form]** by electronic means acceptable to the Commission, for each student completing the course not earlier than **the number of hours for course credit [24 hours]** after the student starts the course and not later than the 10th day after the student completed the course.

(3) A provider may withhold any official completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(4) A provider shall maintain adequate security against forgery for official completion documentation required by this subsection.

(e) (No change.)

(f) Changes in Ownership or Operation of an approved CE Provider. Changes in Ownership or Operation of an approved CE Provider are governed by this subsection.

(1) An approved provider shall obtain the approval of the Commission **at least 30 days** in advance of any material change in the operation of the provider, including but not limited to changes in:

(A) ownership;

(B) management; and

(C) the location of main office and any other locations where courses are offered.

(2) An approved provider requesting approval of a change in ownership shall provide a Principal Information Form for each proposed new owner who would hold at least a 10% interest in the provider to the Commission.

535.77 CE Providers: Compliance and Enforcement
(No change.)

Agenda Item 4

Christine Anderson

From: Lynn Morgan <lmorgan@austininstitute.com>
Sent: Tuesday, September 08, 2015 2:04 PM
To: General Counsel
Subject: RE: Proposed change in Rule 535.62 from the Texas Register

September 8, 2015

TO: Texas Real Estate Commissioners
ESAC Committee Members

RE: Proposed Rule: 535.62(b)(7)(c)(ii)

Multiple versions of the final exam

“draws from a question bank consisting of at least six questions per credit hour” which means that for each 30-clock hour course, 180 final exam questions must be written. The reason for this is that if a student fails the final exam, they do not want the student getting the same final exam for their re-take exam. That certainly makes sense but to require that each course have three times the number of questions is total overkill.

Plus the provider is also required to have end of chapter questions as “practice questions” and also questions on the proposed scenario –based exercises that cannot be the same as the final exam questions. And final exam questions cannot be true/false questions.

A final exam bank of 90 questions would be more than sufficient to be able to randomize and provide the student with enough new questions to test the students’ knowledge of the subject a second time.

I believe the quality of the questions will greatly diminish if the provider is required to make up 180 questions on any one 30-hour course.....

I feel that time will be more productively spent on developing good scenario-based exercises, case studies etc. rather than trying to extract every little detail of every course to come up with this voluminous amount of test questions.

Please reduce the number of questions for the bank of questions to 90.

Thank you.

Lynn Morgan,
Austin Institute of Real Estate

Agenda Item 4

Christine Anderson

From: Lynn Morgan <lmorgan@austininstitute.com>
Sent: Wednesday, September 09, 2015 8:03 AM
To: General Counsel
Subject: RE: Comment from Texas Register on Proctored Exams

September 9, 2015

TO: General Counsel
TREC Commissioners
ESAC Committee Members

RE: 535.65 (h)(4)(C) Proctored exams for qualifying courses
535.72(i)(1)(B)(i)(ii) Proctored exams for non-elective CE courses

It is being proposed that all qualifying (pre-licensing) SAE and non-elective CE courses delivered in a distance learning format must have a proctored exam.

I am opposed to qualifying real estate courses to obtain a license being proctored. It is important to remember that just cheating on a pre-licensing exam does not gain the student entry into real estate. The student still has to pass the State Exam and if they do not know the material for their qualifying courses, I do not know how they are going to pass the State Exam. So there is a definite safeguard in having another level of testing required before a person can obtain a real estate license. Also personally, I don't know who has a friend (in the real estate business or not) who is a good enough friend to take six pre-licensing thirty-hour classes for them!!!

Additionally, there will be the burden of extra expense of proctoring. In the research I have done, there are companies who can proctor remotely but the student would have to have a web-cam and a microphone on their computer (\$50 @Radio Shack if the student doesn't have this equipment) and the proctoring for six exams would be \$100. What other proctoring facilities would charge to oversee someone taking their exams I do not know but I do know that we will be forced to charge the student to have someone sit in a room to proctor.

It seems that through discussion with the ESAC Committee Members, the biggest concerns are those people who have obtained a license and may have their assistant or co-worker take their SAE or CE courses. In these cases, I can understand the need to have the student take a proctored exam to validate their identity, so I am in agreement with the ESAC Committee that it would be a good idea to require the SAE and CE students to take a proctored exam.

Please reconsider the necessity of proctored exams for qualifying courses.

Respectfully,

Lynn Morgan
Austin Institute of Real Estate

Christine Anderson

From: School of Building Inspection <info@hometraining.com>
Sent: Friday, September 25, 2015 11:10 AM
To: Kerri Lewis; Christine Anderson; Tony Slagle
Subject: Public comments on rules proposed from August 17th, 2015 Texas Real Estate Commission meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Public comments on rules proposed from August 17th, 2015 Texas Real Estate Commission meeting

1. We are concerned that the rule to “renew” courses every four years is being changed to require “subsequent approval” every four years—even if the curriculum required by TREC has not changed. We fear this represents an unnecessary double regulation. Not only does no other state require reapproval, no other regulatory agency in Texas does this either. This rule would leave every Texas student and every school in limbo at “subsequent approval” time, subject to TREC staff. A course previously approved after being thoroughly reviewed by TREC staff could then be disapproved by another staff member, severely harming Texas students who are in the middle of taking the course.

We recommend a grace period be instituted by rule to protect students by allowing them to finish courses that were approved when they enrolled but have since been disapproved through the “subsequent approval” process, etc. Thus, if a student enrolled in a course before a course required renewal, that student could complete the course even if the course was not subsequently approved after they enrolled but before they finished the course.

2. We are also concerned that the “subsequent approval” timeframe has been moved from six months to three months. We feel that this unnecessarily creates too short a time frame for courses to be submitted, re-evaluated by staff, and then for the iteration process that these applications involve to wind its way to completion. We are concerned that this will lead to a bottleneck as most of the “subsequent approvals” come in the last three months of 2015 and in similar sequences as these same courses come for approval every four years thereafter. This also leads to an interesting dilemma, if the rule replacing “renewal” with “subsequent approval” passes, it would go into effect in November 2015, yet all the renewals for courses that have been taught for over five years must be done by December 31, 2015. How does that give time for “subsequent approvals” in such a short span of only one month?

Therefore, we recommend that the deadline for “subsequent approval” be extended to at least three months after the rule passes. If not, you may want to pass some emergency rulemaking that gives an automatic extension to courses that have not been evaluated in time for their renewal. Also, as we mentioned, we would also ask that some provision be added to provide a grace period for students who are already enrolled in a course that does not get reapproved.

3. We are also concerned with the new requirement of 535.62 (b)(1)(G)(iii)(I) and (II) that final exams have 2 questions per credit course hour and a bank of 6 questions per credit course hours.. That would be 2700 questions in the bank. That is probably more than the National Home Inspector Exam company has. It should be pointed out that the rule for the 30 hour Real Estate Math course only requires 30 questions and 60 questions in the bank. It is assumed this exception was made because math is a difficult subject. Home inspection is also a

Agenda Item 4

very technical field with many difficult subjects. For example, understanding the principles of electricity, electrical circuits, plumbing systems, HVAC systems, etc. can be quite difficult, even more difficult than math.

Therefore, we recommend that for the required technical home inspection courses (everything except Standards of Practice and Report Writing) that there be 1 question per credit hour and 2 questions in the bank, the same as with Real Estate math.

4. When final rule changes are adopted, we request that the “grace period” rule be in effect that gives schools a 12 or 15 month extension on courses in order to make the changes required by the new rules.
5. Given the fact that courses taught by third-party providers for universities are screened by the University for characteristics such as instructor qualifications, the appropriateness of material, etc., we believe those components or characteristics already screened by the University should not be rescreened by TREC as well. This would avoid the equivalent of over-regulation.
6. We recommend that 535.66 be clarified so that it more clearly defines its intent to apply to non-TREC approved university courses that are taught only by universities without an approved provider involved, and not to courses that have been pre-approved by TREC, whether taught by universities directly or through contract providers.
7. Requiring typically private, small companies to fill out forms in accordance with GAAP (standards required of publicly traded, SEC regulated corporations) is unnecessary overregulation. The GAAP standards are formats that are only required of publicly traded companies that are regulated by the SEC. That level of regulation need not be required of small, typically Mom-and-Pop’s, that do not have nor require the complexity that a publicly traded corporation does before the SEC.
8. We are concerned about the proposed 535.65 (h)(5)(B). There is no recognized national or Texas state certification program for librarians, library paraprofessionals, or library staff that work in city, county or similar public libraries. We recommend removal of the term “certified librarian” and replace it with “library staff.”
9. Lastly, it would be more fair to the training providers if TREC were to send out notices to the schools about new rules that require changes in the courses, rather than relying solely on the fact that new rules are made public through the Texas register system. This helps the regulatory process run smoother, provides notice to those directly affected, and can also provide a better opportunity for an appropriate response when these notices are given.

Stan and Donna Harbuck
September 25, 2015

Christine Anderson

From: Rebecca Morgan <rebecca@mitprof.com>
Sent: Wednesday, September 30, 2015 9:59 AM
To: General Counsel
Subject: Proposed TREC Proctoring Rules

Education Standards Advisory Committee (ESAC)
c/o Kerri Lewis
Texas Real Estate Commission
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 400
Austin, Texas 78701

RE: Proposed TREC Proctoring Rules

Dear ESAC Members,

Please take some time to re-visit the possibility of requiring us to get a proctor when completing distance education courses. Requiring a student to somehow – find a proctor – or show an ID via webcam or video camera is not practical, or even possible for some of us.

Licensees don't always JUST take MCE for renewal purposes. Sometimes we take additional courses purely for the additional education and to advance our career.

We should be encouraged to take additional education. Steps like this will make education too difficult and burdensome to try and complete, which creates the opposite effect.

Sincerely,

Rebecca Morgan

Christine Anderson

From: Teri Jo Nicholson <terijo1@comcast.net>
Sent: Tuesday, September 29, 2015 3:06 PM
To: General Counsel
Subject: PROPOSED RULE CHANGES IN REFERENCE TO PROCTORING

Education Standards Advisory Committee (ESAC)
c/o Kerri Lewis
Texas Real Estate Commission
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 400
Austin, Texas 78701

RE: Proposed rule changes in reference to Proctoring

Dear ESAC Members,

Please reconsider the proposed rules requiring proctoring of education courses.

My concern is in finding a proctor. It's my understanding that libraries and other places that previously offered proctoring services (back in the day), no longer do, due to technology. This all seems unnecessary as the course I have taken verifies my identity online using what the school calls Validation Questions.

Sincerely,

Teri Jo Nicholson

Christine Anderson

From: Yolanda@TheAmesRealty.com
Sent: Tuesday, September 29, 2015 7:04 PM
To: General Counsel
Subject: Proctoring Proposed Rule Changes

Education Standards Advisory Committee (ESAC)
c/o Kerri Lewis
Texas Real Estate Commission
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 400
Austin, Texas 78701

RE: Proctoring Proposed Rule Changes

Dear ESAC Members,

This letter is to offer feedback in reference to requiring a proctor for courses.

Some of us live in rural areas. So I propose the question: Is it reasonable to require a person to drive such long distances to be able to find a proctor?
That pretty much negates the whole purpose of completing our education by distance.

These proposed rule changes seem to place too high of a burden on us when we are completing courses.

Sincerely,

Yolanda Ames

Agenda Item 4

Christine Anderson

From: Amy Jasper
Sent: Friday, August 07, 2015 6:53 AM
To: Kerri Lewis
Subject: FW: Education and Licensing of New Agents

Kerri,

We received this email yesterday and they have been advised that it has been forwarded to Administration for review and consideration.

Thank you.

Amy Jasper
Communications Coordinator
Reception & Communication Services Division
Texas Real Estate Commission
Texas Appraiser Licensing & Certification Board
(512) 936-3000 or (512) 936-3001

From: outlook_6ae9ad049e27daa0@outlook.com [mailto:outlook_6ae9ad049e27daa0@outlook.com] **On Behalf Of** Marcella Feagin
Sent: Thursday, August 06, 2015 1:39 PM
To: Information
Subject: Education and Licensing of New Agents

As an agent for many years, and working with many newly licensed agents, I personally feel that on-line courses being approved for persons wanting to be licensed is completely inappropriate. When all of their courses are being done on-line, the individuals have no earthly concept of which forms to use, or why to use them. In fact, they do not even know the difference between certain forms.

It is my opinion, as well as many other agents and brokers, that on-line training is decreasing the integrity of the real estate industry. Many brokers will not even let the newly licensed agents hang their licenses and be sponsored by a long-time broker due to the inadequate training they are lacking. If they cannot go to classes in person, where they can actually see the forms and ask an instructor questions pertaining to the use of them, they have no idea of usage and put their brokers in jeopardy as far as E & O insurance goes.

Please give this matter serious consideration in your meetings.

Thank you,
Marcella Feagin
License # 291407

Sent from Windows Mail

Christine Anderson

From: John Gann <John.Gann@unitrainc.com>
Sent: Thursday, September 24, 2015 11:01 AM
To: General Counsel
Subject: ESAC Proposed Rules

Education Standards Advisory Committee (ESAC)
c/o Kerri Lewis
Texas Real Estate Commission
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 400
Austin, Texas 78701

RE: Proposed rules

Dear ESAC Members,

This letter is to provide feedback to the proposed rule change concerning proctoring courses to verify identity.

With the methods that schools already employ to validate our identity, I believe it is unrealistic to expect the licensee to be able to find a proctor at certain times or days.

Many of us are working full time jobs during the day, so courses need to be completed in the evenings or weekends. I don't believe that it is practical to require us to find a proctor, since a proctor may not always be available.

Please remove this proposed requirement and allow schools to validate using the method that seems to be working already - using validation questions during a course.

Thank you for your consideration.

Sincerely,

John Gann

Regards,



Ph: 281-240-1500

Fx: 281-240-4334

john.gann@unitrainc.com

12601 Exchange Drive

Stafford, Texas 77477

www.unitrainc.com



JEFFRY SCOTT HILTON

Education Standards Advisory Committee (ESAC)
c/o Kerri Lewis
Texas Real Estate Commission
Stephen F. Austin Building
1700 N. Congress Avenue, Suite 400
Austin, Texas 78701

September 30, 2015

RE: Proposed Rule Changes

Dear ESAC Members,

In reference to the proposed rules regarding proctoring of distance education courses, we are aware of ESAC's concern of student identity when taking a distance course, and its importance. However, we disagree with the proposed rules and would like to offer reasons why, and an alternative.

1. There is no 100% way to confirm a person's identity, even in a classroom setting, other than finger printing or a DNA test.
 - In a classroom setting, or online, showing an ID will not always confirm identity of a person. A person could have a twin, a look-alike, or the person could have an altered or fabricated ID.
2. Requiring a proctor is not practical in this day and age, especially with technologies that exist as an industry standard.
 - Some people live in rural areas. Is it reasonable to require that person to drive upwards of a hundred miles to be able to get proctored? What if they are out of the country?
 - What if a proctor cannot be found? Some sources that previously provided proctoring services no longer provide that service, such as libraries, etc.
 - Has ESAC considered possible litigation from licensees affected by this change in reference to ADA (American with Disabilities Act) issues, such as the inability to obtain transportation to a proctor? What if the proctor location is not ADA compliant? If TREC requires the proctor, is TREC going to be responsible to confirm ADA compliance of the proctoring site?



2914 Verde Valley Drive, Manvel, Texas 77578
Office: 281.692.0777 | Fax: 713.893.6012 | Mobile: 281.932.4739
online: www.ScottHilton.com | email: Scott@ScottHilton.com



JEFFRY SCOTT HILTON

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3. While the issue of confirming a person's identity is important, should we go overboard due to a small number of bad apples?
 - On average, 6,000 real estate licensees renew each month in Texas. So what are the possible repercussions from this change if half were under this new requirement?
 - Approximately 36,000 licensees would be completing education, and courses are typically broken into several courses to meet renewal requirements, meaning more than 180,000 courses would be affected each year. What else does that mean?
 - Over 180,000 times a school may have to explain how to attempt to find a proctor.
 - Over 180,000 times a student would drive to a proctor. What happens if the proctor isn't available or doesn't show up?
 - Over 180,000 times a provider will have to collect proctor forms, and store that information.
 - What is the cost this will cause licensees to endure? If a proctor were to charge \$50 to proctor each course, that cost would be \$9,000,000 per year to licensees.
 - While the licensee should complete their education early, by rules, they have until 11:59pm on their expiration date to complete their education and renew.
 - Is it reasonable to expect that the licensee will be able to find a proctor at 9:00pm? How about on a Saturday or Sunday? Some licensees may work full time jobs and need to complete their education at night or on weekends.
 - Requiring a student to show an ID via webcam, Skype® or other video option may not be practical. What if they don't have access to a camera on the computer they're using?

For these few reasons, the proposed rule changes appear to be an undue burden on licensees or license applicants, and a hardship on providers.

4. There should be a practical balance in what can, should or will happen. The sanctity of the education process should be retained and always improve with technology. This includes verifying a student's identity, but it should also include enforcement actions by the Texas Real Estate Commission, such as revoking a license for violation of TREC Rules.

As a reminder, the Texas Real Estate Commission doesn't even verify a licensee's identity when renewing a license online through its



JEFFRY SCOTT HILTON

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website.

5. What is a reasonable compromise that will allow providers to verify identity and students to complete distance education with less overreaching obstacles?

Industry standards for distance learning typically employ the following:

- Student affirms digitally that they are the person completing the work. (Such as TREC does in the renewal process online) This will assist TREC in enforcement actions.
- Validation questions. Require the student to answer validation questions about their identity during the course. This has been employed since day 1 that we provided distance learning courses, with the assistance of Gwen Jackson, Director of Education, Licensing & Cashier at the Texas Real Estate Commission. With her instruction and guidance, we developed our system for student validation.

In summary, I think we would all agree that validating a student's identity is important. It is also important to remember that human beings do break laws and rules, and there is no way to 100% confirm a person identity, even by showing an ID - other than a DNA test or fingerprinting. (Also - don't forget - twins have the same identical DNA). We should not add burdensome rule changes due to a small number of violations. TREC enforcement should be used as a deterrent.

Please ask the question:

Should ESAC's proposed rules changes expect providers to proctor in an effort to verify identity, when TREC doesn't require this when renewing online, and digitally signing and attesting to their rules?

Sincerely,

Scott Hilton

Real Estate Broker
MCE Provider

Agenda Item 4

Christine Anderson

From: Rainbow Septic <info@rainbowseptic.com>
Sent: Wednesday, September 16, 2015 8:53 PM
To: General Counsel
Subject: Continuing Education

Follow Up Flag: Follow up
Flag Status: Flagged

This email is off the subject of the new proposed continuing education rules but since I have you ear I want to communicate that from my 30 year perspective it is becoming cost and time prohibitive to renew profesional licenses. I have watch every industry increase their course requirements/hrs with no consideration for the cost associated for the licensee.

And by the way, what is the reasoning behind making me wait 60 hours before I get a completion certificate for an online course. I took the course, passed the exam and paid for the course and now I have to wait 60 hours. That puts the onous on me to spend more hours tracking the provider to insure I get a certificate issued in a timely manner. I prefer the issuance of a certificate the moment I complete the course as it reduces my workload.

I don't work on a salary as do state employees. The cost of my two license renewals was approximately \$2000 in fees/travel/hotel PLUS 43 hours of lost work time. Would you be willing to work for one week without getting paid and have \$2000 worth of expenses on top no paycheck? Governmental authorities don't take into consideration. The continue education industry and licensing industry are running amok.

I don't need the licenses to do my business but keep them because I DO learn from the courses and want to keep abreast.....but the increasing number of required courses is making this source of education cost prohibitive.

Just feedback from an every increasingly weary entrepreneur.

Janice Witt

Agenda Item 4

TREC proposed rules:

Kerri Lewis

TREC General Counsel

PO Box 12188

Austin, TX 78711

9/10/2015

RECEIVED
TEXAS REAL ESTATE COMMISSION
SEP 14 2015
CASHIER'S SECTION
OPERATOR 15

Against: Section 535.65 (v) a course completion certificate is not issued to the student until at least twice the number of hours for which course credit is given has elapsed since the student registered for the course.

RIDICULOUS. ONCE A REALTOR COMPLETES A COURSE, GIVE THEM CERTIFICATE.
LET'S ENCOURAGE REALTORS TO GET INTO R.E., NOT BE NEGATIVE.

Against: Registration date, Begin date and End date on the course completion certificates. Registration date does not play a factor in any outcome. I do not feel the registration date needs to be on a certificate.

REGISTRATION DATE NOT NECESSARY. JUST ADDS MORE GOVERNMENT WORK.
GET WITH OUR TIMES.

Against: Section 535.65 (h) (4)(C) this rule requires proprietary schools and MCE providers to proctor each student in all delivery methods by means of a physical person present or observe the student through the use of technology for distance education delivery.

BAD SUGGESTION. TEXAS IS LARGE STATE
MANY PEOPLE IN RURAL AREAS WOULD BE COSTLY & NOT PRODUCTIVE.

Against: Benchmark of all license categories pass rate be raised from 70% to 80%.

BAD IDEA. MANY GREAT AGENTS WHO WORK HARD WILL BE IN 70% TO 99% PASS RATE. KEEP AT 70%.

Against: Increasing a classroom day to no more than 12 hours from the current 10 maximum hours in a classroom day.

10 HOURS A DAY IS PLENTY, ACTUALLY TOO MUCH.

WE ARE NOT AT WAR, WHAT IS BIG HURRY. WE WANT QUALITY NEW AGENTS.

Against: Rule 535.56 (a)(1)(A) the 30 hr. brokerage course completion not more than two years before the application date to take the broker's national, state exams. Currently, no time limit.

KEEP AT NO TIME LIMIT. MOST STUDENTS LEARN MORE BY
WORK EXPERIENCE THAN CLASSROOM STUDIES. ONCE THIS COURSE IS
COMPLETED, AGENTS WILL BE D.K.

LET'S ENCOURAGE PEOPLE TO GET IN REAL ESTATE.

JERRY BENSON

Jerry Benson

Brokers License # 195758
(Broken Since 1970's)



NORTH HOUSTON TX 773

10 SEP 2015 PM 9 L

KERRI LEWIS
TREC GENERAL COUNSEL
PO Box 12188
Austin TX 78711

 Mr. Jerry Benson
2611 Morrison St.
Houston, TX 77009-7611

RECEIVED
TEXAS REAL ESTATE COMMISSION
SEP 14 2015
CASHIER'S SECTION
OPERATOR 15





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TEXAS REAL ESTATE COMMISSION

SEP 09 2015

**CASHIER'S SECTION
OPERATOR 13**

September 8, 2015

Kerri Lewis
General Counsel
Texas Real Estate Commission
PO Box 12188
Austin, TX 78711

I would like to take the opportunity to speak to some of the statutory and rule changes presented at the August 17, 2015 Commission meeting. We can greatly appreciate the tasks set before TREC to be accountable and transparent in ensuring that the public is protected and the Commission's Mission & Philosophy is upheld.

I would like to draw your attention to items we are against, for, and request clarification on.

AGAINST: The statutory rule that "*a course completion certificate **may not be issued** to the student until at least **twice the number of hours** for which course credit is given has elapsed since the **student registered for the course.**" (TREC Summary, 2015) and/or Section 535.65 "(v) a course completion certificate is not issued to the student until at least twice the number of hours for which course credit is given has elapsed since the student registered for the course." (TREC Proposed Rules, 2015)*

How does each rule help the student become a better agent? How does this help the student? How does this help TREC? How does this help the school? How does this help the consumer? Requiring a student to wait 60 hours to obtain their 30 hour course completion certificate appears to have no positive outcome for consumers, TREC, students or schools. The aggravation of the student due to the lag time in "getting their new career started is not fair to the student".

Schools are under high standards for student validations, policies, and procedures which elevates the need to make the student wait to obtain their course completion certificate. With the Commission seeking to streamline their work force and to go paperless by eventually having the schools upload qualifying course completion certificates (same as the CE processing used now) to student records, this rule certainly appears to defeat the purpose with TREC requiring schools and students to wait additional time for a course completion certificate. Having the Commission become more aggressive in the area of implanting systems to allow schools to move into the direction of uploading via software would be far better served. Very few states across the U.S. require course completion certificates to report in a delayed manner. **Most states offer reporting via upload method and there is no waiting period.**

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AGAINST: It appears there is/was some confusion about the dates seen on certificates not reflecting the start and end dates to actually equal 30 hours. Clarification in the rules would have been a better resolution to the confusion than to require the schools to place the **date the student registered for the course, began and end date** of the course on a course completion certificate. *Simplification of the rule to indicate that a combination course completion certificate should reflect 30 hours, would have been a better solution to the rule change.*

Recall the rules allow for **combination** course delivery of classroom and distance education delivery. Meaning that the student works part of the time on their own and then attends classroom time. The **schools followed TREC rules** to state on the course completion certificate that they are "In Association with a College/University" and required classroom certificates to reflect the start and end dates. Simply looking at the certificate's start and end dates to validate 30 hours for correspondence requires additional consideration to verify that the course certificate is or is not from a correspondence course provider. Certainly, it is understandable the Commission and schools desire to ensure that the student is spending the required amount of time in the classroom and that documents reflect required information.

AGAINST: I oppose the statutory rule Section 535.65(h)(4)(C) **which requires schools to proctor each student in all delivery methods** by means of a physical person present or observe the student through the use of technology for distance education delivery. This ruling puts an undue burden upon the students to locate a proctor, plus were the proctors even considered when making the decision to have them take on the responsibility to become a proctoring body for TREC approved courses.

The acceptable TREC proctors may end up just telling people "No" once the numerous amounts of potential agents and inspectors, **plus** approximately 156,000 licensed real estate licensees, not counting real estate inspectors, or let's say an average of 13,000 a month licensed real estate licensees, start coming to these unsuspecting third party proctors. We certainly understand the need to positively identify students and many schools have acceptable methods in place. TREC determined the acceptable verification methods years back and schools have worked within the scope of their processes. There are other innovative methods used by many federal and state agencies. No method is free from risk, because those who cheat will find a way. Are students guilty of cheating before they even get started? Punish those guilty, not those who hold themselves accountable.

College and universities students are not required to be proctored when students take their online and correspondence courses. According to NAR our student's median age is 52 years old. Certainly they would not need a proctor if an 18 yr. old college student does not.

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AGAINST: The benchmark of **80% pass rate for each license category**. We would recommend that the score be lowered to a **75% pass rate score** calculation to be at least equal to the Broker's state and national exam score set by the Commission.

Against: TREC has statutorily moved to no more than 12 hours days within a classroom, which may work; however, when you look at the students overall ability to retain information this factors into what is really retained when having the student spend up to 12 hours *in a classroom setting*. We certainly realize that it is up to each school to establish their class hours; however, we are looking at the potential effects upon the students as a whole, and ask the question, "Will students have retained the information vital to their learning?" Having ample time to learn the materials is just one of a myriad of contributing factors to the state and national exam pass rate success and failure, which effects the schools pass rate scores. Many schools are dedicated to the students learning. 10 hour classroom days are tiring enough and allowing the flexibility of 12 hour days is grueling for the student's physical comfort.

For: proposed Rule 535.56(a)(1)(A) which restricts the time frame for completing the Real Estate Brokerage course. "... *which must include the 30 hour qualifying real estate brokerage course completed not more than two years before the application date; and*" (TREC, 2015) However, the Broker Responsibility course should be mandatory for all applicants as it contains more complete policies on training and managing agent

For and with thanks: "A provider may now apply for a course approval with multiple delivery methods and pay only one content and examination review fee." (TREC summary, 2015)

The proposed rule actually states that "a *single application fee* will be charged for courses offered in multiple delivery methods **AND a fee will be required for each content and examination review." (TREC Proposed Rules, 2015)**

CLARIFIATION: I am requesting clarification on the new display that will be shown on the Commission's website by license category. (Rule 535.61(k)(1)(A-B))

I would like to recommend clarification to the proposed rule to indicate if this new data calculations will be from a new starting period for the new website's license calculations. Data collected up to this point appears to be inaccurate.

CLARIFICATION: I recommend clarification to the proposed Rule 535.62(c) which pertains to distance learning certification courses approved by IDECC. The rules indicates that the course **will comply with the verification of clock/course hours and design for distance education delivery**. However, with the proposed new fee structure it is not clear what the fee would be required to be paid when submitting a course already approved by IDECC.



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For:

The Texas Real Estate Commission doing away with the Rule that a proprietary school must work in association with a college or university to offer correspondence courses. Allowing TREC to accept, approve those courses will allow for the fees to go directly to TREC for launching such courses instead of paying a third party entity.

TREC has the authority to approve, disapprove and monitor all correspondence providers.

Champions School of Real Estate, LTD. strives to empower our students with integrity, ethics, accountability, and knowledge. We strive to be innovative and on the cutting edge for our students!

We greatly appreciate your time and efforts to work with the schools to create a better educational program that produces license holders and inspectors that are knowledgeable, ethical, have integrity and value to be successful.

Sincerely,

A handwritten signature in black ink that reads 'Rita'.

Rita Santamaria
Owner & CEO

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TO **KERRI LEWIS**
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Agenda Item 4



PROPOSED RULE ACTION FROM THE AUGUST 17, 2015, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS

Subchapter I. License Renewal

535.91, Renewal of a Real Estate License and
535.92, Continuing Education Requirements

§535.91 Renewal of a Real Estate License

(a)-(c) (No change.)

(d) Initial renewal of salespersons license. A salesperson applying for the first renewal of a salesperson license must:

(1) submit documentation to the Commission showing successful completion of the additional educational requirements of §535.55 of this chapter no later than 10 business days before the day the salesperson files the renewal application; and

(2) fulfill the continuing education requirements of §535.92 of this subchapter.

(e)-(h) (No change.)

(i) Renewal of license for **[active-duty]** military **service** member. A license holder on active duty in the United States armed forces **is entitled to two years of additional time to [serving outside the State of Texas may]** renew an expired license without being subject to any increase in fee, any education or experience requirements or examination if the license holder:

(1) provides a copy of official orders or other official documentation acceptable to the Commission showing that the license holder was on active duty **[outside the State of Texas]** during the **license holder's [licensee's]** last renewal period; **and**

[(2) applies for the renewal not later than the 90th day after the date the license holder's active duty ends; and]

(2)[(3)] pays the renewal application fee in effect when the previous license expired.

§535.92 Continuing Education Requirements

(a) Required continuing education. **18 [15]** hours of continuing education are required for each renewal of a real estate salesperson or broker license and must include:

(1) a **four [three]** hour **Legal Update I: Laws, Rules and Forms [legal update]** course;

(2) a **four [three]** hour **Legal Update II: Agency, Ethics and Hot Topics [ethics]** course; and

(3) a six hour broker responsibility course, if the license holder:

(A) sponsors one or more salespersons **at any time during the current license period; [or]**

(B) is a designated broker of a business entity **that sponsors one or more salespersons at any time during the designated broker's current license period;** or

(C) is a delegated supervisor of one or more license holders for a period of six months or more during the supervisor's current license period.

~~**[(b) Legislator waiver. A license holder who is a current member of the Texas Legislature is not required to take the three hour ethics course required under subsection (a) of this section.]**~~

(b)[(e)] Awarding continuing education credit. The Commission will award credit to a license holder for an approved continuing education course upon receipt of a course completion roster from a CE provider as required under §535.75 of this title.

(c)[(d)] Continuing education credit for qualifying courses. Real estate license holders may receive continuing education elective credit for qualifying real estate courses or qualifying real estate inspection courses that have been approved by the Commission or that are accepted by the Commission for satisfying educational requirements for obtaining or renewing a license. Qualifying real estate courses must be at least 30 classroom hours in length to be accepted for continuing education elective credit.

(d)[(e)] Continuing education credit for course taken outside of Texas. A course taken by a Texas license holder to satisfy continuing education requirements of a country, territory, or state other than Texas may be approved on an individual basis for continuing education elective credit in Texas upon the Commission's determination that:

(1) the Texas license holder held an active real estate license in the a country, territory, or state other than Texas at the time the course was taken;

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

(3)the Texas license holder'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 continuing education credit in Texas; and

(5)the Texas license holder has filed a Credit Request for an Out of State Course Credit Request, with the Commission.

~~(e)(f)~~Continuing education credit for courses offered by the State Bar. To request continuing education elective credit for real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit, a license holder is required to file an Individual Credit Request for State Bar Course.

~~(f)(g)~~Continuing education credit for courses required for a professional designation. A course taken by a license holder 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 continuing education elective credit if the license holder files for credit for the course using Individual 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

(g) Continuing education credit for attendance at Commission meeting. A real estate license holder may receive up to four hours of continuing education elective credit per license period for attendance in person at a February Commission meeting.

(h) (No change.)

Agenda Item 5

Christine Anderson

From: Dan Robertson <rettschool@gmail.com>
Sent: Monday, September 21, 2015 10:07 AM
To: General Counsel
Subject: Commets on Changes

Broker Responsibility Course.....I teach Legal, Ethics, Broker Responsibility and the Qualifying Education courses. I think all Brokers/Entities, whether they have sales agents under them or not should be required to take Broker Responsibility. The information in Broker Responsibility is important even though there is some repeat of Legal and Ethics. The information presented in BR is what Brokers should have top-of-mind whether they have agents reporting to them or not. I also think it is good to encourage all non-broker agents to take Broker Responsibility, although it should not be mandatory.



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"Aristotle says our most important and rewarding human capacity is to learn new ideas and, especially, to apply that learning to helping and teaching others"



PROPOSED RULE ACTION FROM THE AUGUST 17, 2015, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS

Subchapter F. Requirements for Education Providers, Courses and Instructors for
Qualifying Education

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

~~[(1) Alternative delivery—A method of course delivery other than classroom delivery where the course has been certified by a distance learning certification center acceptable to the Commission.]~~

~~[(1) [(2)] Applicant--A person seeking approval to be an education provider or instructor of qualifying courses.~~

~~[(2) [(3)] Classroom delivery--A method of course delivery where the instructor and students interact face to face and in real time, in either the same physical location, or through the use of technology.~~

[(3) Distance Education delivery—A method of course delivery other than classroom delivery, including alternative delivery and correspondence delivery.]

~~[(4) Correspondence delivery—A method of course delivery other than classroom delivery where the course has not been certified by a distance learning certification center acceptable to the Commission.]~~

[(4) [(5)] Instructor--A person approved by the Commission to teach qualifying courses.

[(5) [(6)] Mandatory qualifying course--A qualifying course that an applicant is required to take to fulfill licensing requirements as mandated by §1101.358 of the Act.

[(6) [(7)] Other qualifying course--A qualifying course, other than a mandatory qualifying course, for which the subject matter of the course is specified by the Act or Commission rule, that an applicant is required to take to fulfill licensing requirements.

[(7) [(8)] Person--Any individual, partnership, corporation, or other legal entity, including a state agency or governmental subdivision.

[(8) [(9)] Provider--Any person approved by the Commission; or specifically exempt by the Act, Chapter 1102, or Commission rule; that offers a course for which qualifying credit may be granted by the Commission to a license holder or applicant.

[(9) Scenario-based learning—The use of scenarios to support active learning strategies such as problem-based or case-based learning where students must apply their subject knowledge, critical thinking and problem solving skills in a real-world context.]

[(10) Topic—Subject categories of what must be covered in a specific course as defined by the Act, Chapter 1102 and this chapter.]

[(11) Unit—A subtopic within a topic.]

535.61 Approval of Providers of Qualifying Courses

(a)-(b) (No change.)

(c) Standards for approval. To be approved as a provider by the Commission, the applicant must meet the following standards:

(1) the applicant must satisfy the Commission as to the applicant's ability to administer courses with competency, honesty, trustworthiness and integrity. If the applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant;

(2) the applicant must demonstrate that the applicant has sufficient financial resources to conduct its proposed operations on a continuing basis without risk of loss to students taking courses from the approved provider; and

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(3) that any proposed facilities will be adequate and safe for conducting courses

(d) Financial review. An applicant shall provide the following information to enable the Commission to determine if an applicant has sufficient financial resources to conduct its proposed operations:

(1) business financial statements prepared in accordance with generally accepted accounting principles, which shall include a current income statement and balance sheet ~~[of financial condition and a current statement of net worth]~~;

(2) a proposed budget for the first year of operation; and

(3) a market survey indicating the anticipated enrollment for the first year of operation.

(e)-(g) (No change.)

(h) Payment of an annual operation fee.

(1) An approved provider shall submit the Commission approved form and pay an annual operation fee prescribed by §535.101 of this title no later than each anniversary of the date of the provider's approval.

(2) An approved provider who fails to pay the annual operation fee as prescribed shall be placed on inactive status and notified in writing by the Commission.

(3) The approved provider will remain on inactive status until the annual fee is paid.

(4) The Commission will not give credit for courses given by a provider on inactive status.

(i) (No change.)

(j) Subsequent Approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for subsequent approval [renewal] for another four year period.

(2) Approval or disapproval of a subsequent [renewal] application shall be subject to:

(A) the standards for initial applications for approval set out in this section; and

(B) whether the approved provider has met or exceeded the exam passage rate benchmark established by the Commission under subsection (k).

(3) The Commission will not require a financial review for subsequent approval [renewal] if the

applicant has provided a statutory bond or other security acceptable to the Commission under §1101.302 of the Act, and there are no unsatisfied final money judgments against the applicant.

(k) Exam passage rates and benchmark.

(1) The exam passage rate for an approved provider shall be: ~~[For purposes of this subsection, a student is affiliated with the approved provider where the student took his or her last qualifying course. The Commission will not count the student in calculating the approved provider's exam pass rate if the student's last qualifying course was taken more than two years before the date the approved provider or student submitted the course to the Commission.]~~

(A)calculated for each license category for which the provider offers courses; and

(B) displayed on the Commission website by license category.

(2) The Commission will calculate the exam passage rate of an approved provider ~~[providers for each category of license will be calculated]~~ on a monthly [quarterly] basis by:

(A)determining [dividing] the number of students affiliated with that approved provider~~[,]~~ who passed the examination on their first attempt in the two [four]-year period ending on the last day of the previous month; and [quarter,]

(B) dividing that number by the total number of students affiliated with that provider ~~[the approved provider's graduates]~~ who took the exam for the first time during that same period.

(3) A student is affiliated with a provider under this subsection if the student took the majority of his or her hours of qualifying education with the provider in the two year period prior to taking the exam for the first time.

(4)[(3) If an approved provider offers courses to multiple license categories, the exam results for that approved provider will be calculated by license category. The passage rate for each license category that will be used to determine whether the approved provider has met or exceeded] For purposes of approving a subsequent application under subsection (j), the established exam passage rate benchmark for each [the] license category is

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80% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month.~~[most current rate published by the Commission as of the date the Commission receives the timely application for renewal or, if the approval expired before being renewed, the most recent rate published by the Commission as of the expiration date of that provider's approval.]~~

(5)~~[(4) Providers who do not]~~ If at the time the Commission receives a subsequent application for a provider, the provider's exam passage rate does not meet the established benchmark for a license category the provider will be: ~~[may be denied renewal]~~

(A) disapproved for that license category if the provider's exam passage rate is less than 50% of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month; or

(B) placed on probation by the Commission if the provider's exam passage rate is 50% or greater of the average percentage of the total examinees for that license category who passed the examination on the first attempt in the two year period ending on the last day of the previous month ~~[under terms acceptable to the Commission].~~

(6) The exam passage rate of a provider on probation will be reviewed annually at the time the annual operating fee is due to determine if the provider can be removed from probation, remain on probation or have its license revoked, based on the criteria set out in (k)(5) of this section.

~~[(5) In determining whether an approved provider qualifies for renewal for a particular license category based on its examination passage rate, the Commission may consider a variety of factors, including:~~

~~(A) the overall passage rate for sales, broker, and inspector applicants; and~~

~~(B) any trends within the approved provider's passage rate over the four-year approval period.]~~

~~[(6) The Commission will publish the exam passage rate of providers by category of license on the Commission's website on a quarterly basis.]~~

535.62 Approval of Qualifying Courses

(a) Application for approval of a qualifying course.

(1) For each qualifying course a provider intends to offer, the provider must:

(A) submit the [applicable] course application and course approval forms, [form(s)] including all materials required; and

~~[(B) submit all materials listed on the applicable course approval form(s); and]~~

(B)~~[(C)]~~ pay the fee required by §535.101 or §535.210 of this title.

(2) A provider may file a single application for a qualifying course offered through multiple delivery methods. A fee is required for content and examination review of each qualifying course and for each distinct delivery method utilized by a provider for that course.

(3) A provider who seeks approval of a new delivery method for a currently approved qualifying course must submit a new application and pay all required fees, including a fee for content and examination review.

(4)~~[(2)]~~ The Commission may:

(A) request additional information be provided to the Commission relating to an application; ~~[and]~~

(B) terminate an application without further notice if the applicant fails to provide the additional information not later than the 60th day after the Commission mails the request; ~~and~~

(C) prior to approval of a proposed qualifying real estate inspector course, submit the course to the Texas Real Estate Inspector Committee for review and recommendation.

(b) Standards for course approval.

(1) To be approved as a qualifying course by the Commission, a provider must satisfy the Commission that the course ~~[must]:~~

(A) covers ~~[cover]~~ all topic and unit areas for the specific course subject required by the Act, Chapter 1102 and this chapter;

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(B) devotes [devote] the time prescribed for each topic required by a course approval form adopted by the Commission;

(C) will be scheduled for the full clock hours of time for which credit is awarded and presented in full hourly units;

(D) does not have daily course segments that exceed 12 hours [meet the requirements of §535.65 of this subchapter];

(E) will be delivered by one of the following delivery methods:

(i) classroom delivery [method];

(ii) distance education [alternative] delivery [method]; and

(iii) a combination of (i) and (ii), if[:]

~~[(H)]~~ at least 50% of the combined course is offered by classroom delivery [method]; and

(F) include at a minimum, the following methods to assess a student's comprehension of the course material:

(i) topic quizzes, with at least three questions related to the subject matter of each course topic;

(ii) at least one scenario-based learning exercise per every increment of 10 credit hours or less; and

(iii) if the course is delivered by distance education delivery:

(I) Prevent the student from moving to the next topic until the student answers all topic quiz questions correctly and receives a passing grade on the scenario based learning exercises; and

(II) for quiz questions answered incorrectly, employ a method to present the rationale behind the correct answer and ask a subsequent related quiz question that will count toward passing the topic if answered correctly; and

(G) will have multiple versions of a final exam that:

(i) covers each topic required by the Act or Rules for the specific course;

(ii) does not contain any true/false questions;

(iii) for all qualifying courses other than a real estate math course:

(I) consists of at least two questions per credit course hour; and

(II) draws from a question bank consisting of at least six questions per credit course hour; and

(iv) for all qualifying real estate math courses, consists of at least 20 questions that are drawn from a question bank consisting of at least 60 questions.

~~[(H)] the portion of the combined course offered through alternative delivery is taken from a full course that has already been certified for alternative delivery by a distance learning certification center acceptable to the Commission;~~

~~[(iv) a correspondence course that is offered by a provider in association with an accredited college or university if the course is offered in accordance with the college or university's accreditation association's curriculum accreditation standards; or]~~

~~[(v) a combination of (i) and (iv), if:~~

~~(1) at least 50% of the combined course is offered by classroom method; and~~

~~(II) the combined course is offered by a provider in association with an accredited college or university in accordance with the college or university's accreditation association's curriculum accreditation standards;]~~

~~[(2) Using the name of the provider "in association with" the name of the college or university on the course completion certificate constitutes certification to the Commission that the course was offered in compliance with the college or university's accreditation association's curriculum accreditation standards.]~~

~~[(3) The Commission may submit a proposed qualifying real estate inspector course to the Texas Real Estate Inspector Committee for review and recommendation prior to approval of the course.]~~

(c) If the course is currently certified by a distance learning certification center acceptable to the Commission, the provider will be deemed to have met requirements for verification of clock/course hours and design for distance education delivery.

(d) Approval of currently approved courses by a subsequent provider.

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(1) If a subsequent provider wants to offer a course currently approved for another provider, the subsequent provider must:

(A) submit the ~~[applicable]~~ course application and approval forms [form(s)] including all materials required;

(B) submit written authorization to the Commission from the author or provider for whom the course was initially approved granting permission for the subsequent provider to offer the course; and

(C) pay the fee required by §535.101 or §535.210 of this title.

(2) If approved to offer the previously approved course, the subsequent provider is required to:

(A) offer the course as originally approved, including expiration date, with any approved revisions, using all materials required for the course; and

(B) meet the requirements of §535.65 of this subchapter.

~~(e)~~ Required revision of a currently approved qualifying course.

(1) Providers are responsible for keeping current on changes to the Act and Commission Rules and must supplement materials for approved courses to present the current version of all applicable statutes and rules on or before the effective date of those statutes or rules.

(2) If the Commission adopts new requirements for a course, including but not limited to a course approval form that divides selected qualifying course subjects into topics and units, any provider currently offering a course on that subject must:

(A) revise and supplement any currently approved classroom qualifying course covering that subject no later than 12 months after the effective date of the new requirements;

(B) revise and supplement any currently approved qualifying course offered by distance education [alternative] delivery ~~[covering that subject and obtain recertification of the course by a distance learning certification center acceptable to the Commission]~~ no later than 15 months after the effective date of the new requirements;

(3) For each revised qualifying course, a provider must:

(A) submit the **applicable** course application and approval forms [form(s)] including all materials required; and

~~[(B) submit all revised materials, and if applicable, recertification; and]~~

~~(B)~~[(C)] pay the fee required by §535.101 or §535.210 of this title.

(4) A provider may not offer a currently approved course for qualifying credit after the deadlines established by this subsection following a required revision of a qualifying course.

(5) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(6) A revised course approved under this subsection expires four years from the date of approval of the revision.

(7) No later than 90 days before the effective date of a revised course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised course.

(8) If an approved provider fails to give the notice set out in paragraph (6) of this subsection, the provider shall allow the student to take the revised course at no additional charge.

~~(f)~~[(e)] Voluntary revision of a currently approved qualifying course.

(1) A provider who voluntarily revises a currently approved course, shall, prior to implementation of any course materials:

(A) file any updated course materials and revisions of the course outline with the Commission; and

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(B) pay the fee required by §535.101 and §535.210 of this title.

(2) If after review the Commission is not satisfied with the updated course materials and revised course outline, the Commission may direct a provider to:

- (A) further revise the materials;
- (B) cease use of materials; or
- (C) withdraw a course text.

(3) If a provider paid a fee for the initial course approval, the provider will receive a prorated credit on the fee paid under this subsection for the unexpired time remaining on that initial approval. The Commission will calculate the prorated credit by dividing the fee paid for the initial approval by 48 months and multiplying that amount by the number of full months remaining between the approval date of the revised course and the expiration date of the currently approved version of the course.

(4) A revised course approved under this subsection expires four years from the date of approval of the revision.

(5) No later than 90 days before the effective date of a revised course, a provider shall send written notice to all students who have purchased the currently approved course and not completed it, that credit will no longer be given for the current course as of the effective date of the revised course.

(6) If an approved provider fails to give the notice set out in paragraph (5) of this subsection, the provider shall allow the student to take the revised course at no additional charge.

(g)~~(f)~~ Expiration of approval.

(1) Courses approved after January 1, 2011 are valid for four years from the date of approval.

(2) Courses approved before January 1, 2011 expire on December 31, 2015.

(3) Courses approved for use by a subsequent provider under subsection (c) expire on the same date that the originally approved course expires.

(4) Currently approved versions of a course expire 90 days after approval of a revised version of that course.

~~(h)~~~~(g)~~ Renewal of course approval. Not earlier than 90 days before the expiration of a course approval, a provider may obtain a renewal of course approval for another four year period by following the process and meeting the current standards for an initial course approval.

~~[(h) — Timeframe for course approval. The Commission will approve a course as soon as reasonably practicable after a provider meets all the requirements set out in this section. For the purposes of this section, "reasonably practicable" means no sooner than the 30th day after the Commission receives all required documentation for approval as set out in this section.]~~

(i) (No change.)

535.63 Approval of Instructors of Qualifying ~~[and Non-Elective CE]~~ Courses

(a) (No change.)

(b) Standards for instructor approval. To be approved as an instructor by the Commission to teach real estate or real estate inspection qualifying courses, the applicant must meet the following standards:

(1) The applicant must satisfy the Commission as to:

(A) the applicant's honesty, trustworthiness, and integrity; and

(B) the person's competency in the subject matter to be taught and ability to teach effectively.

(2) Except as provided by paragraph (3) of this subsection, the applicant must possess the following qualifications:

(A) a college degree in the subject area or five years of **active [professional]** experience **as a license holder [in the subject area]** and three years of experience in teaching or training; **or [and]**

~~[(B) beginning January 1, 2016, a completion certificate from an adult education instructor training course of at least 8 hours that is acceptable to the Commission and dated within 5 years of the date of the application; or]~~

(B)~~(C)~~ the equivalent of **paragraph [paragraphs]** (2)(A) ~~[and (B)]~~ of this subsection as determined by the Commission after consideration of the applicant's professional experience,

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research, authorship, or other significant endeavors in real estate or real estate inspection; and [the subject area.]

(C)beginning January 1, 2016, provide a completion certificate from an adult education instructor training course of at least 8 hours that is acceptable to the Commission and dated within four years of the date of application.

(3) To be approved as an instructor of Texas Standards of Practice, Texas Standards of Practice/Legal/Ethics Update, or as an instructor of a ride along inspection course as defined in §535.218 of this title, an applicant must have five years of active licensure as a Texas professional inspector, and have:

(A) performed a minimum of 200 real estate inspections as a Texas professional inspector; or

(B) three years of experience in teaching and/or sponsoring trainees or inspectors.

(c) Approval notice. An applicant shall not act as or represent that the applicant is [itself-to-be] an approved instructor until the applicant has received written notice of the approval from the Commission to teach specified course.

~~[(d) Certification required to teach real estate non-elective CE courses.~~

~~(1) An applicant may not teach a real estate non-elective CE course until the applicant has:~~

~~(A) been approved as an instructor of qualifying courses; and~~

~~(B) received written certification from the Commission to teach a specific non-elective continuing education course.~~

~~(2) To obtain certification to teach a real estate non-elective continuing education course, the applicant must:~~

~~(A) be currently approved by the Commission as an instructor for qualifying courses in the subject areas of Principles of Real Estate, Law of Agency and Law of Contracts to teach Legal or Ethics Update; or~~

~~(B) be currently approved by the Commission as an instructor of qualifying courses in the subject areas of Principles of Real Estate, Law of Agency, Law of Contracts and Real Estate Brokerage to teach Broker Responsibility; and~~

~~(C) successfully complete an instructor training program approved by the Commission for the non-elective continuing education course for which certification is sought.~~

~~(3) A previously certified instructor must be recertified to teach a non-elective course whenever the previous course has expired and a new course has been approved.~~

~~(4) An instructor's certification to teach a legal or ethics update course expires on December 31 of every odd-numbered year.~~

~~(5) An instructor's certification to teach the broker responsibility course expires on December 31 of every even-numbered year.]~~

(d)[(e)] Period of [initial] approval. The [initial] approval of an [a] instructor is valid for two years.

(e)[(f)] Disapproval of an application.

(1) If the Commission determines that an applicant does not meet the standards for approval, the Commission shall disapprove the application and provide written notice of the disapproval to the applicant.

(2) The disapproval notice, applicant's request for a hearing on the disapproval, and any hearing are governed by the Administrative Procedure Act, Texas Government Code, Chapter 2001, and Chapter 533 of this title (relating to Practice and Procedure). Venue for any hearing conducted under this section shall be in Travis County.

(f)[(g)] Subsequent approval [Renewal].

(1) Not earlier than 90 days before the expiration of its current approval, an approved instructor may apply for subsequent approval [renewal] for another two year period.

(2) Approval or disapproval of a subsequent approval [renewal] shall be subject to the standards for initial applications set out in this [the] section.

535.64 Content Requirements for Qualifying Real Estate Courses

(a) Mandatory qualifying courses. To be approved by the Commission, the following mandatory qualifying courses must contain the content outlined below:

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(1) Principles of Real Estate I, which shall contain the following topics, the units of which are outlined in the PRINS 1-0, Qualifying Real Estate Course Approval Form, Principles of Real Estate I, hereby adopted by reference:

(A) Introduction to Modern Real Estate Practice - 200 minutes;

(B) Real Property - 60 minutes;

(C) Concepts and Responsibilities of Home Ownership - 95 minutes;

(D) Real Estate Brokerage and the Law of Agency - 180 minutes;

(E) Fair Housing Laws - 150 minutes;

(F) Ethics of Practice as a License Holder - 30 minutes;

(G) Texas Real Estate License Act - 180 minutes;

(H) Legal Descriptions - 100 minutes;

(I) Real Estate Contracts - 135 minutes;

(J) Interests in Real Estate - 180 minutes;

(K) How Home Ownership is Held - 70 minutes; and

(L) Listing Agreements - 120 minutes.

(2) Principles of Real Estate II, which shall contain the following topics, the units of which are outlined in the PRINS 2-0, Qualifying Real Estate Course Approval Form, Principles of Real Estate II, hereby adopted by reference:

(A) Real Estate Math - 200 minutes;

(B) Real Estate Appraisal - 200 minutes;

(C) Real Estate Financing Principles - 210 minutes;

(D) Control of Land Use - 115 minutes;

(E) Specializations - 50 minutes;

(F) Real Estate Investments - 110 minutes;

(G) Leases - 95 minutes;

(H) Property Management - 120 minutes;

(I) Estates, Transfers, and Titles - 200 minutes; and

(J) Closing Procedures/Closing the Real Estate Transaction - 200 minutes.

~~[(3) A combined 60-hour course approved by the Commission, consisting of both Principles of Real Estate I and II, which includes the topics for each course as outlined by this section.]~~

~~[3][(4)]~~ Law of Agency, which shall contain the following topics, the units of which are outlined in

the LOA-0, Qualifying Real Estate Course Approval Form, Law of, hereby adopted by reference:

(A) Agency Concepts - 130 minutes;

(B) Basic Agency Relationships, Disclosure & Duties to Client - 125 minutes;

(C) Duties and Disclosures to Third Parties - 125 minutes;

(D) Seller Agency - 120 minutes;

(E) Buyer Agency - 150 minutes;

(F) Representing More than one Party in a Transaction: Intermediary Brokerage - 165 minutes;

(G) Creation and Termination of Agency - 85 minutes;

(H) Clarifying Agency Relationships - 45 minutes;

(I) Employment Issues - 120 minutes;

(J) Agency, Ethics and the Law - 155 minutes;

(K) Deceptive Trade Practices & Consumer Protection Act - 140 minutes; and

(L) Implementation and Presentation - 140 minutes.

~~[4][(5)]~~ Law of Contracts, which shall contain the following topics, the units of which are outlined in the LOC-0, Qualifying Real Estate Course Approval Form, Law of Contracts, hereby adopted by reference:

(A) Texas Contract Law - 155 minutes;

(B) Basics of Real Estate Law - 115 minutes;

(C) Introduction to Contracts - 75 minutes;

(D) Ownership Rights and Limitations - 120 minutes;

(E) Contracts Used in Real Estate - 275 minutes;

(F) The Sales Contract - 135 minutes;

(G) Contingencies, Addenda and Amendments - 105 minutes;

(H) Financing Real Estate - 235 minutes;

(I) Conveyance of Title - 90 minutes;

(J) Transaction Process and Closing - 135 minutes; and

(K) Common Contract Mistakes - 60 minutes.

~~[5][(6)]~~ Promulgated Contract Forms, which shall contain the following topics, the units of which are outlined in the PCF-0, Qualifying Real Estate Course Approval Form, Promulgated Contract Forms, hereby adopted by reference:

(A) Contract Law Overview - 155 minutes;

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- (B) Laws, Rules and Regulations - 150 minutes;
- (C) Parties, Properties and Financing - 155 minutes;
- (D) Covenants, Commitments and Notices - 160 minutes;
- (E) Closing, Possession and More - 220 minutes;
- (F) The Remaining Promulgated Forms - 205 minutes;
- (G) Promulgated Addenda, Notices and Other Forms - 205 minutes;
- (H) Other Real Estate Matters - 115 minutes; and
- (I) Practice Makes Perfect - 135 minutes.

~~[(7) A combined 60 hour course approved by the Commission, consisting of both Law of Contracts and Promulgated Contract Forms, which includes the topics for each course as outlined by this section.]~~

[6] [(8)] Real Estate Finance, which shall contain the following topics, the units of which are outlined in the REF-0, Qualifying Real Estate Course Approval Form, Real Estate Finance, hereby adopted by reference:

- (A) The Nature & Cycle of Real Estate Finance - 105 minutes;
- (B) Money & the Monetary System - 100 minutes;
- (C) Additional Government Influence - 200 minutes;
- (D) The Secondary Mortgage Market - 95 minutes;
- (E) Sources of Funds - 110 minutes;
- (F) Instruments of Real Estate Finance - 170 minutes;
- (G) Loan Types, Terms & Issues - 200 minutes;
- (H) Government Loans - 215 minutes;
- (I) Lender Loan Processes - 220 minutes;
- (J) Defaults & Foreclosures - 85 minutes.

[7] Real Estate Brokerage (mandatory for a broker's license) which shall contain the following topics, the units of which are outlined in the REF-0, Qualifying Real Estate Course Approval Form, Real Estate Brokerage, hereby adopted by reference:

- (A) The Real Estate Industry - 30 minutes;
- (B) Starting a Brokerage Business - 110 minutes;

(C) Ethical & Legal Business Practices – 300 minutes

(D) Analyzing the Market & the Competition – 110 minutes

(E) Managing Risk – 110 minutes;

(F) Financing Your Business – 110 minutes;

(G) Negotiating a Commercial Lease – 100 minutes;

(H) The Marketing Plan – 150 minutes;

(I) Management Style & Structure – 100 minutes;

(J) Recruiting & Hiring – 100 minutes;

(K) Professional Brokerage Competency & Associate License Holder Productivity – 180 minutes;

(L) Evaluating the Business – 50 minutes;

(M) Growth Opportunities – 50 minutes.

(b)-(d) (No change.)

535.65 Responsibilities and Operations of Providers of Qualifying Courses

(a) Responsibility of Providers.

(1) A provider is responsible for:

(A) the administration of each course, including, but not limited to, compliance with any prescribed period of time for any required course topics required by the Act, Chapter 1102, and Commission rules;

(B) maintaining student attendance records;

(C) verifying instructor qualification, performance and attendance;

(D) proper examination administration;

(E) validation of student identity acceptable to the Commission;

(F) maintaining student course completion records;

(G) ensuring all advertising complies with subsection (c);

(H) ensuring that instructors or other persons do not recruit or solicit prospective salespersons, brokers or inspectors during course presentation; and

(I) ensuring staff is reasonably available for public inquiry and assistance. ~~;~~

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~~[(J) ensuring that its classroom facilities are adequate for class size and pose no threat to the health or safety of students;]~~

~~[(K) ensuring that each student is present for the course for the hours of time for which credit is awarded.]~~

(2) A provider may not promote the sale of goods or services during the presentation of a course.

(3) A provider may remove a student and not award credit if a student does not participate in class, or disrupts the orderly conduct of a class, after being warned by the provider or the instructor.

(4) If a provider approved by the Commission does not maintain a fixed office in Texas for the duration of the provider's approval to offer courses, the provider shall designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas that the provider is required to maintain by this section. A power-of-attorney designating the resident must be filed with the Commission in a form acceptable to the Commission.

(b) Use of approved Instructor.

(1) Except as provided by this subsection, a provider must use an instructor that is currently approved by the Commission to teach the specified course;

(2) Each instructor shall be selected on the basis of expertise in the subject area of instruction and ability as an instructor;

(3) A provider shall require specialized training or work experience for instructors teaching specialized subjects such as law, appraisal, investments, taxation or home inspection;

(4) An instructor shall teach a course in substantially the same manner represented to the Commission in the instructor's manual or other documents filed with the application for course approval form; and

(5) A provider may use the services of a guest instructor who is not approved as an instructor by the Commission for qualifying real estate or inspector courses provided that person instructs for no more than 10% of the total course time.

(c) Advertising.

(1) The following practices are prohibited:

(A) using any advertising which does not clearly and conspicuously contain the provider's name on the first page or screen of the advertising;

(B) representing that the provider's program is the only vehicle by which a person may satisfy educational requirements;

(C) conveying a false impression of the provider's size, superiority, importance, location, equipment or facilities, except that a provider may use objective information published by the Commission regarding pass rates;

(D) promoting the provider directly or indirectly as a job placement agency, unless the provider is participating in a program recognized by federal, state, or local government and is providing job placement services to the extent the services are required by the program; ~~[or]~~

(E) making any statement which is misleading, likely to deceive the public, or which in any manner tends to create a misleading impression; ~~[-]~~

(F) advertising a course under a course name other than the course name approved by the Commission; or

(G) advertising using a name that implies the course or course provider is the Texas Real Estate Commission, including use of the acronym "TREC", in all or part of the course or course provider's name.

(2) Any written advertisement by a provider that includes a fee that the provider charges for a course must display all fees that the provider charges for the course in the same place in the advertisement and with the same degree of prominence.

(3) The provider shall advertise a course for the full clock hours of time for which credit is awarded.

(4) The provider is responsible for and subject to sanctions for any violation of this subsection by any affiliate or other third party marketer or web hosting site associated with or used by the provider.

(d)-(e) (No change.)

(f) Course materials.

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(1) Before the course starts, a provider shall give each student copies of or provide online access to any materials to be used for the course.

(2) A provider shall update course materials to ensure that current and accurate information is provided to students as provided for under §535.62 of this subchapter.

(g) Presentation of courses.

(1) Classroom Delivery:

(A) The location for the course must be:

(i) ~~offered in a location~~ conducive to instruction, such as a classroom, training room, conference room, or assembly hall that is separate and apart from work areas;

(ii) adequate for the class size;

(iii) pose no threat to the health or safety of students; and

(iv) allow the instructor to see and hear each student and the students to see and hear the instructor, including when offered through the use of technology.

(B) The provider must:

(i) check the photo identification of each student at class sign up and when signing in for each subsequent meeting of the class;

(ii) ensure the student is present for the course for the hours of time for which credit is awarded;

(iii) provide a 10 minute break per hour at least every two hours; and

(iv) not have daily course segments that exceed 12 hours.

~~[(B) The course must be scheduled for the full clock hours of time for which credit is awarded;]~~

(C) Makeup Session for Classroom Courses.

(i) A provider may permit a student who attends at least two-thirds of an originally scheduled qualifying course to complete a makeup session to satisfy attendance requirements.

(ii) A member of the provider's staff must approve the makeup procedure to be followed. Acceptable makeup procedures are:

(I) attendance in corresponding class sessions in a subsequent offering of the same course; or

(II) the supervised presentation by audio or video recording of the class sessions actually missed.

(iii) A student shall complete all class makeup sessions no later than the 90th day after the date of the completion of the original course.

(iv) Dropped status may not be changed by makeup sessions, and any hours accumulated by a student may not be transferred to any other course, prior to being dropped from a course.

(v) A student who attends less than two-thirds of the originally scheduled qualifying course is not eligible to complete a makeup session. The student shall automatically be dropped from the course with no credit and the provider shall report the student's status to the Commission.

~~[(C) Course presentation per day cannot exceed 10 hours;]~~

~~[(D) A 10 minute break per hour must be given at least every two hours.]~~

(2) Distance Education ~~[Alternative]~~ Delivery ~~[and Correspondence]~~:

(A) the provider must ensure that:

(i) the student taking all topics of the course and completing all quizzes and exercises is the student receiving credit for the course through a validation process that meets guidelines approved by the Commission;

(ii) ~~(i)~~ an approved instructor ~~[that a qualified person]~~ is available to answer students' questions or provide assistance as necessary in a timely manner; ~~[and]~~

(iii) ~~(ii) that~~ a student has completed all instructional modules and attended any hours of live instruction required for a given course; ~~[and]~~

(iv) ~~(B)~~ an approved instructor is ~~[or the provider's coordinator or director must be]~~ responsible for providing answers and rationale for the grading of the written course work; ~~and~~

(v) a course completion certificate is not issued to the student until at least twice the number of hours for which course credit is given has elapsed since the student registered for the course.

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(3) A provider is not required to present topics and units in the order outlined for a course on the corresponding course approval form.

(4) The periods of time prescribed to each unit of a topic for a qualifying course as outlined on the corresponding course approval form are recommendations and may be altered to allow instructors flexibility to meet the particular needs of their students.

~~[(h) Makeup Session.~~

~~-(1) A provider may permit a student who attends at least two-thirds of a originally scheduled qualifying course to complete a makeup session to satisfy attendance requirements.~~

~~-(2) A member of the provider's staff must approve the makeup procedure to be followed. Acceptable makeup procedures are:~~

~~—(A) attendance in corresponding class sessions in a subsequent offering of the same course; or~~

~~—(B) the supervised presentation by audio or video recording of the class sessions actually missed.~~

~~-(3) A student shall complete all class makeup sessions no later than the 90th day after the date of the completion of the original course.~~

~~(4) Dropped status may not be changed by makeup sessions, and any hours accumulated by a student may not be transferred to any other course, prior to being dropped from a course.~~

~~(5) A student who attends less than two-thirds of the originally scheduled qualifying course is not eligible to complete a makeup session. The student shall be automatically dropped from the course with no credit and the provider shall report the student's status to the Commission.]~~

(h) [(i)] Course examinations.

(1) The final examination given at the end of each course must be given in a form and with questions [the examination] that were [was] submitted to the Commission with the course approval form.

~~[(2) Each topic required by the Act or Rules for a qualifying course must be covered in the final examination for that course.]~~

~~[(3) Unless otherwise provided for in this section, a provider shall use final course examinations~~

~~consisting of at least 60 questions with an unweighted passing score of 70%.]~~

~~[(4) Real estate math qualifying course examinations may consist of a minimum of 20 questions with an unweighted passing score of 70%.]~~

(2) [(5)] Final examination questions must be kept confidential and be significantly different from any quizzes and exercises [questions] used ~~[for diagnostic assessment of units]~~ in the course.

(3) [(6)] A provider shall not permit a student to view or take a final examination before the completion of regular course work and any makeup sessions required by this section.

(4) [(7)] Examinations must ~~[be:]~~

(A) comply with the requirements of 535.62 (G);

(B) require an unweighted passing score of 70%; and

(C) [(A)] be proctored by a member of the provider faculty or staff, or third party proctor acceptable to the Commission, who is present at the test site or able to observe the student through the use of technology, and has positively identified that the student [students] taking the examination is [are] the student [students] registered for and who took the course. ~~[; or]~~

~~[(B) administered using a computer under conditions that satisfy the Commission that the student taking the examination is the student who took the course.]~~

~~[(8) A provider shall revise final course examinations for all active qualifying courses at least annually.]~~

(5) The following are acceptable third party proctors:

(A) employees at official testing or learning/tutoring centers;

(B) certified librarians at a school, university, or public library;

(C) college or university administrators, instructors, or academic advisors;

(D) clergy who can be identified with a specific temple, synagogue, mosque, or church; and

(E) educational officers of a corporation, military installation, or correctional facility.

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(6)~~(9)~~ A provider may not give credit to a student who fails a final examination and makeup final examination.

(j) Makeup final course examination.

(1) If a student fails a final course examination, a provider may permit the student to retake the final examination only once and only after the student has:

(A) waited at least **three** ~~seven~~ calendar days; and

(B) completed any additional course work prescribed by the provider.

(2) A student shall complete a makeup final examination no later than the 90th day after the date the original class concludes **and the second examination must be significantly different from the first examination.**

(3) If a student fails to timely complete the makeup final examination as required by this subsection, the student shall be automatically dropped from the course with no credit.

(4) A student who fails the final course examination a second time is required to retake the course prior to retaking the final course examination.

(k) Course completion certificate.

(1) Upon successful completion of a core course, a provider shall issue a course completion certificate that a student can submit to the Commission. The course completion certificate shall show:

(A) the provider's name **and approval number;**

(B) the instructor's name and **instructor license** ~~approval~~ number assigned by the Commission;

(C) the course title;

(D) course numbers ~~[,including any Commission pre-approval number received];~~

(E) the number of classroom **credit** hours;

(F) the dates the student **registered for,** began and completed the course; and

(G) printed name and signature of an official of the provider on record with the Commission.

(2) A provider may withhold any official completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(3) A provider shall maintain adequate security against forgery for official completion documentation required by this subsection.

(l) Instructor and course evaluations.

(1) A provider shall provide each student enrolled in a course with an instructor and course evaluation form and provide a link to an online version of the form that a student can complete and submit any time after course completion.

(2) An instructor may not be present when a student is completing the evaluation form and may not be involved in any manner with the evaluation process.

(3) **When** ~~[At a minimum, when]~~ evaluating an instructor or course, a provider shall use **the** ~~[an]~~ evaluation form approved by the Commission. **A provider may also add additional questions to the end of the Commission evaluation form or request the students to also complete the provider's evaluation form.**

(4) A provider shall maintain any comments made by the provider's management relevant to instructor or course evaluations with the provider's records.

(5) At the Commission's request, a provider shall produce instructor and course evaluation forms for inspection by Commission staff.

(m) Maintenance of records for a provider of qualifying courses.

(1) A provider shall maintain records of each student enrolled in a course for a minimum of four years following completion of the course, including course and instructor evaluations and student enrollment agreements.

(2) A provider shall maintain financial records sufficient to reflect at any time the financial condition of the school.

(3) A school's financial statement and balance sheets must be available for audit by Commission staff, and the Commission may require presentation of financial statements or other financial records.

(4) All records may be maintained electronically but must be in a common format that is legibly and easily printed or viewed without additional manipulation or special software.

(n) Changes in Ownership or Operation of an approved provider of qualifying courses.

(1) An approved provider shall obtain the approval of the Commission at least 30 days in advance of any material change in the operation of the provider, including but not limited to changes in:

(A) ownership;

(B) management; and

(C) the location of main office and any other locations where courses are offered.

(2) An approved provider, upon transfer to the new owner, must meet the financial review standards imposed by §535.61 of this subchapter.

(3) An approved provider requesting approval of a change in ownership shall provide all of the following information or documents to the Commission:

(A) a new bond of \$20,000 for the proposed new owner, a statement from the bonding company indicating that the former bond will transfer to the proposed new owner, or other security acceptable to the Commission under §1101.302 of the Act;

(B) an Education Provider Application reflecting all required information for each proposed new owner; **[and]**

(C) a Principal Information Form for each proposed new owner who would hold at least a 10% interest in the school; **and[-]**

(D) pay the fee required by §535.101 or §535.210 of this title.

535.66 Credit for Course Offered by Accredited Colleges or Universities

(a)-(b) (No change.)

(c) Credit for real estate courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university must meet the following requirements:

(1) cover the subject and topics set out in §1101.003 of Tex. Occ. Code as clarified by the Commission in §535.64; and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association **for**

verification of clock/course hours, design and delivery method.

(d) Credit for real estate inspector courses offered by an accredited college or university. To be eligible to receive credit by the Commission, qualifying courses offered by an accredited college or university meet the following requirements:

(1) meet the subject and topic definitions set out in §1102.001(5) of Tex. Occ. Code as clarified by the Commission in §535.213; and

(2) comply with the curriculum accreditation standards required of the college or university by the applicable accreditation association **for verification of clock/course hours, design and delivery method.**

(3) any courses offered to fulfill the substitute experience requirements allowed under §1102.111 must meet the requirements set out in §535.212 of this title, including instructor qualifications.

(e) (No change.)

(f) Required approval of qualifying courses not offered under subsections (c) or (d) **or that are not subject to academic accreditation standards.**

(1) To be eligible for credit from the Commission, a qualifying course offered by an accredited college and university **[on its own or in association with a third-party provider approved by the Commission]** that is not offered under subsections (c) or (d) **or that is not subject to academic accreditation standards** is required to be submitted for approval by the Commission in accordance with §535.62 of this subchapter, including payment of any fee required.

(2) An accredited college or university may not represent that a course qualifies for credit by the Commission unless the accredited college or university receives written confirmation from the Commission that the course has been approved.

(g)-(h) (No change.)

535.67 Qualifying Education: Compliance and Enforcement (No change.)