

**Texas Real Estate Commission
Chapter 535, General Provisions
Rules Adopted on Emergency Basis at the August 6, 2007 Meeting**

Subchapter R. Real Estate Inspectors

§§535.206, 535.208, 535.210, 535.211, 535.212, 535.215-.216, 535.224

The Texas Real Estate Commission (TREC) adopts on an emergency basis amendments to §535.206 concerning the Texas Real Estate Inspector Committee, §535.208 concerning Application for a License and adopts by reference new Form REI 8-0, Certificate of Insurance, §535.210 concerning Fees, new §535.211 concerning Professional Liability Insurance, §535.212 concerning Education and Experience Requirements for an Inspector License, §535.215 concerning Inactive Inspector Status, §535.216 concerning Renewal of License or Registration, and §535.224 concerning Practice and Procedure. The amendments and new rules are adopted on an emergency basis to comply with new legislation that included revisions to Texas Occupations Code Chapter 1102 enacted during the 80th Legislative Session, Regular Session, by Senate Bill 914 and House Bill 1530. The effective date of SB 914 and HB 1530 is September 1, 2007. The adoption of the emergency revisions and new rule permits TREC to comply with the effective date required by both bills.

The amendments to §535.206 provide the standards for membership on the Real Estate Inspector Advisory Committee, the amendments to §535.208 provide for home inspector applicants to show proof of professional liability insurance, the amendments to §535.210 establish the fee for an educational evaluation of \$30, new §535.211 provides for home inspector applicants to show proof of professional liability insurance, the amendments to §535.212 provide that under the alternative licensing method for a real estate and professional inspector license, an applicant must have education and experience in lieu of the traditional requirements under three-tier method of licensure, the amendments to §535.215 provide that a license will revert to inactive status if a licensee is unable to maintain professional liability insurance coverage as required by law, the amendments to §535.216 provide for home inspector renewal applicants to show proof of professional liability insurance, and the amendments to §535.224 delete provisions that authorized the committee to hear disciplinary cases as such cases must, under the

new laws, be heard by the State Office of Administrative Hearings.

The amendments are adopted on an emergency basis under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to insure compliance with the provisions of the Act.

The statutes affected by this emergency adoption are Texas Occupations Code, Chapters 1101 and 1102 and Senate Bill 914, and House Bill 1530, 80th Legislature, R.S. No other statute, code or article is affected by the adopted amendments.

535.206. The Texas Real Estate Inspector Committee.

(a) The ~~[composition and]~~ functions of the committee are as prescribed by Texas Occupations Code, Chapter 1102.

(b) The committee consists of nine members appointed by the commission as follows:

(1) six members who have been engaged in the practice of real estate inspecting as professional inspectors for at least five years before the member's appointment and who are actively engaged in that practice; and

(2) three members who represent the public, who are not registered, certified, or licensed by an occupational regulatory agency in the real estate industry.

(c) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(d) Members of the committee serve staggered six-year terms, with the terms of two inspector members and one public member expiring on February 1 of each odd-numbered year. Initial appointments may be made for terms shorter than six

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years in order to establish staggered terms. A member holds office until the member's successor is appointed. If a vacancy occurs during a member's term, the commission shall appoint a person to fill the unexpired term.

(e) At a regular meeting in February of each year, the committee shall elect from its members a presiding officer, assistant presiding officer, and secretary.

(f) The commission may remove a committee member if the member:

(1) does not have the qualifications required by subsection (b)(1) of this section if the member is appointed as a professional inspector;

(2) cannot discharge the member's duties for a substantial part of the members term;

(3) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, unless the absence is excused by majority vote of the committee; or

(4) violates Texas Occupations Code, Chapter 1102.

(g) If the administrator of the commission has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the commission that the potential ground exists.

(h) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(i) The committee may meet at the call of a majority of its members. The committee shall meet at the call of the commission.

(j) ~~(b)~~ A quorum of the committee consists of five members.

(k) ~~(e)~~ The committee shall conduct its meetings in substantial compliance with Robert's Rules of Order.

(l) ~~(d)~~ The secretary of the committee, or in the secretary's absence, a member design-

nated by the chairman, shall prepare **written** minutes of each meeting and submit the minutes to the committee for approval and for filing with the commission.

(m) ~~(e)~~ The committee shall submit semiannual reports to the commission on or before March 1 and September 1 of each year detailing the performance of the committee. The commission may require the report to be submitted on a form approved by the commission for that purpose. The committee may submit its written recommendations concerning the licensing and regulation of real estate inspectors to the commission at any time the committee deems appropriate. If the commission submits a **[proposed]** rule to the committee for development, the chairman of the committee or the chairman's designate shall report to the commission **after each meeting at which the proposed rule is discussed** on **~~a monthly basis with regard to~~** the committee's consideration of the rule.

(n) ~~(f)~~ **The committee is automatically abolished on September 1, 2019 unless the commission subsequently establishes a different date. ~~[Hearings before the committee concerning the licensing or discipline of real estate inspectors will be conducted in accordance with §535.221 of this title (relating to Proceedings before the Committee).]~~**

535.208. Application for a License.

(a) A person desiring to be licensed shall file an application using forms prescribed by the commission. Prior to filing an application for a real estate inspector license or for a professional inspector license, the applicant must pay the required fee for evaluation of the education completed by the person and must obtain a written response from the commission showing the applicant meets current education requirements for the license. The commission may require an applicant to furnish materials such as source outlines, syllabi, course descriptions or official transcripts to verify course content or credit. The commission may not accept an application for filing if the application is materially incomplete or the application is not accompanied by the appropriate fee. The commission may not issue a license unless the applicant:

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(1) –(3) (No Change.)

(4) provides all supporting documentation or information requested by the commission in connection with the application; and

(5) submits proof of professional liability insurance as required by Chapter 1102 and Section §535.211 of this title (relating to Professional Liability Insurance).

(b) (No Change.)

(c) The Texas Real Estate Commission adopts by reference the following forms approved by the commission. These forms are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1)-(4) (No Change.)

(5) Certificate of Insurance, Form REI 8-0. [Business License Application for Professional Inspector License by a Limited Liability Company or Corporation, Form REI 7-0.]

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

(1)–(3) (No Change.)

(4) The applicant fails to submit the required proof of professional liability insurance within 60 days after the commission makes written request for proof of insurance.

(e) – (f) (No Change.)

535.210. Fees.

(a) The commission shall charge and collect the following fees:

(1) – (8) (No Change.)

(9) a fee of **\$30**~~[\$10]~~ for **transcript evaluation** ~~[filing an original application for a license as a professional inspector by a corporation or limited liability company];~~

~~[(10) a fee of \$5 for the annual renewal of the license of a professional inspector by a corporation or limited liability company];~~

(10) [(\$11)] a fee of \$20 for requesting issuance of a license because of a change of name, return to active status, or change in sponsoring professional inspector; and

(11) [(\$2)] a fee of \$100 for deposit in the real estate inspection recovery fund upon an applicant's successful completion of an examination. ~~[This fee does not apply to application for a license as a professional inspector by a corporation or limited liability company.]~~

(b) (No Change.)

535.211. Professional Liability Insurance.

(a) When an applicant for a license issued under Chapter 1102 has met all other licensing requirements, the commission shall notify the applicant that the applicant must provide proof of professional liability insurance before the license will be issued.

(b) An inspector must maintain professional liability insurance coverage during the period the license is active.

(c) The applicant must provide proof of insurance on Certificate of Insurance form REI 8-0 signed by the applicant's insurance agent.

(d) An inspector must notify the commission within 10 days of the cancellation or non-renewal of professional liability insurance coverage.

(e) An inspector must retain sufficient records of professional liability insurance coverage to document to the commission continuous coverage for the preceding two year license period.

535.212. Education and Experience Requirements for an Inspector License.

(a) (No Change.)

(b) Experience and additional education requirements.

(1) An applicant may substitute the following experience or additional education in lieu of the number of real estate inspections required by Chapter 1102, Texas Occupations

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Code and in lieu of the requirement that the applicant has previously been licensed for a specified time as an apprentice inspector or a real estate inspector:

(A) For a real estate inspector license, the applicant must have completed at least 30 additional hours of core real estate inspection courses acceptable to the commission, with at least 10 hours of credit each for the structural, mechanical (including appliances, plumbing, and HVAC components) and electrical systems found in improvements to real property. ~~The [,-or-the]~~ applicant must **also** provide documentation satisfactory to the commission to establish that the person has been licensed or registered at least three years as an architect, professional engineer, or engineer-in-training, or has at least five years of personal experience inspecting, installing, servicing, repairing or maintaining each of the structural, mechanical and electrical systems found in improvements to real property. Documentation of experience must include two reference letters from persons other than the applicant who have personal knowledge of the applicant's occupation and work.

~~[(B) Prior to January 1, 2005, for a professional inspector license, the applicant must have completed at least 60 additional hours of core real estate inspection courses acceptable to the commission, with at least 20 hours of credit each for the structural, mechanical (including appliances, plumbing, and HVAC components) and electrical systems found in improvements to real property, or provide documentation satisfactory to the commission to establish that the person has been licensed or registered at least five years as an architect, professional engineer, or engineer-in-training, or has at least seven years of personal experience inspecting, installing, servicing, repairing or maintaining each of the structural, mechanical and electrical systems found in improvements to real property. Documentation of experience must be in verified form and from persons other than the applicant who have personal knowledge of the applicant's occupation and work.]~~

(B) For [(C) Effective January 1, 2005, for] a professional inspector license, the

applicant must have completed at least 320 additional hours of education acceptable to the commission. The additional 320 education hours must include 45 hours in Foundation Systems, 40 hours in Roof Systems, 45 hours in Framing, 40 hours in Electrical Systems, 40 hours in HVAC Systems, 40 hours in plumbing, 20 hours in Building Enclosure, 10 hours in Appliances, 15 hours in Standards of Practice/Legal/Ethics, 15 hours in Standard Report Form/Report Writing, and 10 hours of other approved courses. **The applicant must also [or]** provide documentation satisfactory to the commission to establish that the person has been licensed or registered at least five years as an architect, professional engineer, or engineer-in-training, or has at least seven years of personal experience inspecting, installing, servicing, repairing or maintaining each of the structural, mechanical and electrical systems found in improvements to real property. Documentation of experience must include two reference letters from persons other than the applicant who have personal knowledge of the applicant's occupation and work.

(2) (No Change.)

535.215. Inactive Inspector Status.

(a) For the purposes of this section, an "inactive" inspector is a licensed professional inspector, real estate inspector, or apprentice inspector who is not authorized by law to engage in the business of performing real estate inspections as defined by Texas Occupations Code, Chapter 1102, and who has been placed on inactive status by the commission for any of the following reasons:

(1)-(4) (No Change.)

(5) the expiration, suspension, or revocation of the license of the inspector's sponsoring professional inspector; ~~[-]~~

(6) the failure of the licensee to provide to the commission proof of professional liability insurance; or

(7) the expiration or non-renewal of the inspector's professional liability insurance.

(b)-(f) (No Change.)

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535.216. Renewal of License or Registration.

(a) A person licensed by the commission under Texas Occupations Code, Chapter 1102 (Chapter 1102), may renew the license by timely filing the prescribed application for renewal, paying the appropriate fee to the commission and satisfying applicable continuing education requirements as required by Chapter 1102, and by §535.218 of this title (relating to Continuing Education), and providing to the commission proof of professional liability insurance with a minimum limit of \$100,000 per occurrence as required by §535.211 of this title (relating to Professional Liability Insurance) and §1102.203, Texas Occupations Code.

(b) (No Change.)

(c) A licensee also may renew an unexpired license by accessing the commission's Internet web site, entering the required information on the renewal application form, satisfying applicable education and professional liability insurance requirements and paying the appropriate fee in accordance with the instructions provided at the site by the commission.

(d) (No Change.)

~~[(e) The commission may not renew a license issued to a corporation or limited liability company unless the corporation or limited liability company has designated an officer, manager or employee who meets the requirements of Chapter 1102, Texas Occupations Code, including satisfaction of continuing education requirements. No person may act as designated officer, designated manager or designated employee if the person has failed to meet continuing education requirements. For the purpose of this section, continuing education requirements for the designated officer, designated manager or designated employee must be satisfied during the term of any individual professional inspector license held by the officer, manager or employee.]~~

~~(e)~~**[(f)]** A renewal application is deemed filed when placed in the mail properly addressed to the commission with appropriate postage paid.

~~(f)~~ **[(g)]** An inspector licensed on active status who timely files a renewal application together with the applicable fee, ~~[and]~~ evidence of completion of any required continuing education courses, and proof of professional liability insurance may continue to practice prior to receiving a new license certificate from the commission. If the license has expired and the licensee files an application to renew the license, the licensee may not practice until the new certificate is received.

535.224. Practice and Procedure. [Proceedings before the Committee.]

~~[(a) The committee may be authorized by the commission to conduct administrative hearings or recommend the entry of final orders by the commission, or both, in contested cases regarding:]~~

~~[(1) professional inspectors, real estate inspectors, or apprentice inspectors who are alleged to have violated a provision of Texas Occupations Code, Chapter 1102 (1102) or a rule of the commission;]~~

~~[(2) persons whose applications for licensing as professional inspectors, real estate inspectors or as apprentice inspectors have been initially denied by the commission on a ground relating to the applicant's honesty, trustworthiness and integrity; and]~~

~~[(3) professional inspectors, real estate inspectors, or apprentice inspectors who have been convicted of a criminal offense listed in §541.1 of this title (relating to Criminal Offense Guidelines).]~~

~~[(b) If the committee determines after a hearing that disciplinary action is warranted, the committee may recommend that the commission issue a reprimand, or suspend or revoke a license. The committee may recommend that an order of suspension or revocation be probated in whole or in part by the commission or that the probation be subject to reasonable terms and conditions in the manner contemplated by Texas Occupations Code, Chapter 1101, §1101.656. The committee may recommend that the commission enter a final order denying a license or that a~~

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~~probationary license be issued in the manner contemplated by §535.91 of this title (relating to Hearing on Application Disapproval; Probationary License).~~

~~(a) [(e)]~~ Proceedings [before the committee] shall be conducted [~~by the committee~~] in the manner contemplated by §§533.31-533.39 [~~§§535.31-533.39~~] of this title (relating to Practice and Procedure) and with the Government Code, Chapter 2001, et[er] seq. [~~The chairman of the committee or a member designated by the chairman shall act as presiding officer and may vote as any other member.~~]

~~(b) [(d)]~~ In addition to the grounds for disciplinary action provided in Chapter 1102, a license of an inspector may be suspended or revoked by the commission if the inspector:

(1) fails to make good a check issued to the commission within 30 days after the commission had mailed a request for payment by certified mail to the inspector last known business address as reflected by the commission's records;

(2) fails or refuses on demand to produce a document, book or record in his possession concerning a real estate inspection con-

ducted by him for examination by the commission or its authorized agent; ~~[or]~~

(3) fails within 10 days to provide information requested by the commission or its authorized agent in the course of an investigation of a complaint;

(4) fails to maintain professional liability insurance coverage during the period a license is active; or

(5) fails to notify the commission within 10 days of the cancellation or non-renewal of professional liability insurance coverage.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on August 13, 2007.

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Texas Real Estate Commission

Effective Date: September 1, 2007