

**Texas Real Estate Commission**  
**Chapter 535, General Provisions**  
**Rules Adopted at the October 10, 2011 Commission Meeting**

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**Subchapter F. Pre-License Education and Examination**

**§535.63**

The Texas Real Estate Commission (TREC) adopts amendments to §535.63, regarding Accreditation of Core Education Schools, without changes to the proposed text as published in the August 19, 2011, issue of the *Texas Register* (36 TexReg 5188).

The amendments implement and explain the relevant provisions of Senate Bill (SB) 747, 82nd Texas Legislature, Regular Session (2011). In relevant part, SB 747 amends Texas Occupations Code, §1101.301 to require the commission to adopt rules setting an examination passage rate benchmark for each category of license issued under Chapter 1101 and Chapter 1102, Texas Occupations Code.

The amendment to §535.63 establishes the method in which the benchmark passage rate would be calculated for each license category and makes other conforming changes to be consistent with the amendments made by SB 747.

The reasoned justification for the amendment is to have consistency between the Texas Occupations Code, Chapter 1101 and 22 TAC Chapter 535.

No comments were received on the rule as proposed.

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

The statutes affected by this adoption are Texas Occupations Code, Chapters 1101, 1102, and 1303, and Texas Property Code, Chapter 221. No other statute, code or article is affected by the amendments.

**§535.63. Accreditation of Core Education Schools.**

(a)Application for accreditation. A person desiring to offer educational programs or courses of study under approval of the commission

pursuant to §1101.301 of the Act shall file an application on the appropriate form approved by the commission and submit the required fee.

(1)Standards for approval of application for accreditation. To be accredited by the commission to offer core courses in real estate, 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 such as an independent contractor to conduct or administer the courses, the other person must meet this standard as if the other person were the applicant. The applicant must also demonstrate that the applicant has sufficient financial resources to conduct its proposed operations on a continuing basis without risk of loss to students attending the school and that the proposed facilities will be adequate and safe for conducting classes. An applicant that is currently accredited will be deemed to meet financial requirements imposed by this subsection once the applicant has provided the statutory bond or other security acceptable to the commission under §1101.301 of the Act if there are no unsatisfied final money judgments against the applicant; otherwise, the application will be subject to the financial review provisions of this section.

(2)Financial review. The commission shall review the financial condition of each applicant for accreditation to determine whether the applicant has sufficient financial resources to conduct its proposed operations on a continuing basis. In making this determination, the commission shall be conservative in the financial assumptions it makes concerning the school's proposed operations and its future cash flows. The applicant shall provide the following information:

(A)business financial statements prepared in accordance with generally accepted accounting principles, which shall include a current statement of financial condition and a current statement of net worth;

(B)on an initial application, a proposed budget for the first year of operation; and

(C)on an initial application, a market survey indicating the anticipated enrollment for the first year of operation.

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(3)Approval of application for accreditation. If it determines that the applicant meets the standards for accreditation and has furnished the bond or other acceptable security required by §1101.302 of the Act, the commission shall approve the application and provide a written notice of the accreditation to the applicant. Unless surrendered or revoked for cause, the accreditation will be valid for a period of four years.

(4)Disapproval of application for accreditation. If it determines that an applicant does not meet the standards for accreditation, the commission shall disapprove the application in writing. An applicant may request a hearing before the commission on the disapproval by filing a written request for hearing within 10 days following the applicant's receipt of the notice of disapproval. Following the hearing, the commission shall issue an order which, in the opinion of the commission, is appropriate in the matter concerned. Venue for any hearing conducted under this section shall be in Travis County. The disapproval and hearing are subject to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and to Chapter 533 of this title (relating to Practice and Procedure).

(b)Renewal of accreditation. No more than six months prior to the expiration of its current accreditation, a school may apply for accreditation for another four year period. Approval or disapproval of an application shall be subject to the standards for initial applications for accreditation, as well as the requirement of §1101.301 of the Act.

(1)For purposes of calculating the exam passage rate of a commission-accredited school for a license category, each type of licensing examination that a student takes for the first time will have a school affiliation, unless the last core course taken for the purpose of meeting the education requirements for the type of license was taken at a school that is not accredited by the commission or the course was taken more than two years before the date the student submitted the course to the commission.

(2)The school a student is affiliated with for purposes of this subsection is the school where the student took his or her last core course. If the

student's last core course was taken more than two years before that date, the commission will not count the student in calculating the school's exam pass rate.

(3)A school's passage rate for each license category will be calculated and published quarterly by dividing the number of students affiliated with that school, as defined in paragraph (2) of this subsection, who passed the examination on their first attempt in the four-year period ending on the last day of the previous quarter by the total number of the school's graduates who took the exam for the first time in the same period. If a school offers courses toward multiple license types, the exam results for that school will be calculated and posted by license category. The passage rate for each license category that will be used to determine whether the accreditation standard has been met for the license category is the most current rate published by the commission as of the date the commission receives the timely application for reaccreditation or, if the accreditation expired before being renewed, the most recent rate published by the commission as of the expiration date of the school's accreditation.

(4)In determining whether a school qualifies for reaccreditation for the license category based on its examination passage rate, the commission may consider a variety of factors, including the overall passage rate for sales, broker, and inspector applicants and trends within the school's passage rate over the four-year accreditation period.

(5)The commission shall calculate and publish the average pass rate for each license type each quarter by dividing the total number of applicants who passed the qualifying examination the first time in the four-year period ending on the last day of the previous quarter by the total number of applicants who took the examination for the first time in the same period.

(c)Payment of annual fee. A school shall pay the fee prescribed by §1101.152(a)(11) of the Act and by §535.101 of this title (relating to Fees) no later than the anniversary of the date of the school's accreditation. At least 30 days prior to the day the fee is due, the commission shall send a written notice to the school to pay the fee, but

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the school's obligation to pay the fee is not affected by any failure to receive the notice.

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

Filed with the Office of the Secretary of State on October 12, 2011.

**TRD-201104328**

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Texas Real Estate Commission

Effective Date: November 1, 2011