

**SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS, AND
RENEWALS
28 TAC §19.803**

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §19.803 concerning licensing requirements for insurance professionals. Amendments to §19.803 implement Senate Bill 1200, 86th Legislature, Regular Session (2019), and Occupations Code §55.0041.

EXPLANATION. SB 1200 amended Occupations Code §55.0041 as it addresses authority of military spouses to engage in a business or occupation in this state. These amendments impact TDI licensing rules, which necessitates revisions to 28 TAC §19.803, as well as revisions to sections in other chapters of Title 28 of the Texas Administrative Code addressed in separate rule proposals.

Section 19.803. The proposed amendments to §19.803 add new subsection (g) to the section, which allows for a quicker application process for military spouses who are licensed in a jurisdiction with substantially equivalent requirements to those in Texas.

In addition, the proposal includes nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chris Herrick, deputy commissioner of the Office of Customer Operations has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the section, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures,

and because local governments are not involved in enforcing or complying with the proposed amendment.

Mr. Herrick does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Herrick, expects that administering the proposed amendments will have the public benefits of ensuring that TDI's rules conform to Occupations Code §55.0041.

Mr. Herrick expects that the proposed amendments will not increase the cost of compliance with Occupations Code §55.0041 because they do not impose requirements beyond those in the statute. Occupations Code §55.0041 requires TDI to implement rules that execute the statute. Any costs that result from this implementation result from the statute itself. The costs associated with the rule do not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. TDI does not anticipate a significant increase in applications that would qualify for this exemption. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons, and no additional rule amendments are required under Government Code §2001.0045

because the proposed §19.803 is necessary to implement legislation. The proposed rule implements Occupations Code §55.0041, as added by SB 1200 Legislature, 86th Legislature, Regular Session (2019).

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendment is in effect the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on December 9,

2019. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m. Central time on December 9, 2019. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER I.

28 TAC §19.803

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §19.803 under Insurance Code §36.001 and Occupations Code §55.0041.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies.

ROSS-REFERENCE TO STATUTE. Section 19.803 implements Occupations Code §55.0041, enacted by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§19.803. Military Service Member, Military Veteran, and Military Spouse.

(a) Definitions. The definitions for terms defined in Occupations Code §55.001 are applicable to this section, including the terms "military service member," "military veteran," and "military spouse."

(b) Conflict. To the extent that provisions in this section conflict with provisions in any other section in this chapter, this section controls.

(c) License renewal extension and fee exemption. As specified in Occupations Code §55.003, a military service member who holds a license is entitled to two years of additional time to complete any requirements related to the renewal of the military service member's license as follows:

(1) A military service member who fails to renew a license in a timely manner because the individual was serving as a military service member must submit to TDI:

(A) the licensee's name, address, and license number;

(B) the licensee's military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal, including continuing education.

(2) A military service member specified in paragraph (1) of this subsection is exempt from additional fees required under §19.810 of this title as required in Occupations Code §55.002.

(3) A military service member specified in paragraph (1) of this subsection is entitled to two additional years to complete the continuing education and submit a renewal as specified in Occupations Code §55.003.

(4) A military service member specified in paragraph (1) of this subsection must satisfy the continuing education requirement that has been extended before [~~prior to~~] satisfying the continuing education requirement for any other period.

(d) Alternative and nonresident reciprocal licensing. As specified in Occupations Code §55.009:

(1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(2) a military service member or military veteran[, ~~or military spouse~~] who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license is not required to pay any applicable application fee or examination fee that is paid to TDI. This exemption does not apply to license renewal application fees. To qualify for this exemption the applicant must submit as applicable:

(A) the required original license application, with a request for waiver of the application fee and examination fee paid to TDI;

(B) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(C) marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under paragraph (2) of this subsection; and

(D) documentation that the applicant's military service, training, or education substantially meets all ~~[of]~~ the requirements for the license.

(e) Alternative licensing requirements. For the purpose of Occupations Code §55.004, an applicant for a license who is a military service member or military veteran ~~[or military spouse]~~ may complete the following alternative procedures for licensing.

(1) Requirements for licensing by reciprocity. A nonresident license applicant may apply for a nonresident license subject to the qualifications and as provided in subsection (c) of this section.

(2) Requirements for an applicant whose Texas resident license has expired for more than one year. A license applicant whose Texas resident license has expired for more than one year but less than five years preceding the application date may request that TDI waive the examination requirement. An applicant requesting this waiver must submit to TDI:

(A) the required original license application;

(B) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(C) a marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under subparagraph (B) of this subsection;

(D) evidence that the applicant has completed all required continuing education for the periods the applicant was licensed, and paid all required fines, as required under §19.810 of this title; and

(E) a request for waiver demonstrating the applicant's credentials that justify waiver of the licensing examination.

(f) Service in a combat theater. A military service member serving in a combat theater, as provided for in Insurance Code §36.109, may apply to TDI for an exemption from or an extension of time for meeting the continuing education requirements or extending their license renewal. The licensee must request the exemption or extension before ~~[prior to]~~ the end of the reporting period for which it applies and must include:

(1) a copy of the order to active duty status, service in a combat theater, or other positive documentation of military service that will prevent the licensee from compliance;

(2) a clear request for either an extension or exemption, or both;

(3) the expected duration of the assignment; and

(4) any other information the licensee believes may assist TDI or that TDI requests, on a case by case basis.

(g) Military Spouses. Military spouses who are licensed in a state with substantially equivalent requirements to those of this state are eligible for a license while the military service member to whom the military spouse is married is stationed at a military installation in this state. This license is effective for a period of three years from the date the spouse receives confirmation from the Texas Department of Insurance of receipt of the items described by this subsection. The military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to operate under the license in Texas;

(2) submit to TDI proof of the military spouse's residency in Texas and a copy of the spouse's military identification card; and

(3) show evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

(h) Notwithstanding any other section in this title, a military spouse submitting an application under this section is not required to pay an application fee to TDI.

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

Issued in Austin, Texas, on October 25, 2019.

/s/ James Person
James Person, General Counsel
Texas Department of Insurance