

# 2020-6199

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 19. Licensing and Regulation of Insurance Professionals, Subchapter I

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## **SUBCHAPTER I. GENERAL PROVISIONS REGARDING FEES, APPLICATIONS, AND RENEWALS**

### **28 TAC §19.803**

**INTRODUCTION.** The Commissioner of Insurance adopts amendments to 28 TAC §19.803, relating to licensing requirements for insurance professionals. The amendments are adopted without changes to the proposed text published in the November 8, 2019, issue of the *Texas Register* (44 TexReg 6703).

**REASONED JUSTIFICATION.** The amendments are necessary to implement legislation. Senate Bill 1200, 86th Legislature, Regular Session (2019), 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 and adoption orders.

**Section 19.803(g).** Section 19.803(g) describes the criteria for a military spouse to engage as an insurance professional in Texas. The military spouse must be licensed in a state with substantially equivalent requirements to those of Texas and the military service member to whom the military spouse is married must be stationed in Texas. The military spouse may engage as an insurance professional for three years from the date confirmation is received from TDI.

Section 19.803(g)(1) describes what the military spouse must submit to TDI to engage in business as an insurance professional. Section 19.803(g)(1)(A) requires the military spouse submit an application notifying TDI of their intent to operate under the

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license in Texas. Section 19.803(g)(1)(B) requires the military spouse to submit to TDI proof of the military spouse's residency in Texas and a copy of the spouse's military identification card and §19.803(g)(1)(C) requires evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of Texas.

**Section 19.803(h).** Section 19.803(h) states that the military spouse will not be assessed an application fee.

### **SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** TDI received one written comment from The Surety & Fidelity Association of America.

#### **Comment on §19.803.**

A commenter requests clarification on whether certain licensing requirements to furnish surety and fidelity bonds would still be required for military spouses seeking licensure through Occupations Code §55.0041 and the corresponding proposed rules.

#### **Agency Response.**

Texas Occupations Code §55.0041 provides the framework and rulemaking authority for this rule. Section 55.0041 authorizes a military spouse to engage in a business or occupation without obtaining an applicable license if the military spouse is currently licensed in a jurisdiction with substantially equivalent licensing requirements, but it also requires the military spouse to comply with all other laws and regulations applicable to the business or occupation. Consistent with §55.0041, the proposed rules do not absolve a military spouse from financial responsibility requirements imposed by law or regulation.

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### SUBCHAPTER I.

#### 28 TAC §19.803

**STATUTORY AUTHORITY.** The Commissioner adopts the amendments to 28 TAC §19.803 under Occupations Code §55.0041 and Insurance Code §36.001.

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.

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.

#### 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;

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(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 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 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;

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(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 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 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;

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(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 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;

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(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 adoption and found it to be within the agency's legal authority to adopt.

Issued at Austin, Texas, on January 17, 2020.

/s/ James Person

James Person, General Counsel  
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §19.803.

/s/ Kent C. Sullivan

Kent C. Sullivan  
Commissioner of Insurance

Commissioner's Order No. **2020-6199**