

RULES OF THE TEXAS REAL ESTATE COMMISSION

As Revised and in Effect on

February 1, 2016

Texas Real Estate Commission
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SUBCHAPTER R REAL ESTATE INSPECTORS

NOTES

This publication contains the Commission's Rules in effect on February 1, 2016.

The rules adopted by the Texas Real Estate Commission are located in Title 22 of the Texas Administrative Code. Each rule is identified by a section number in the Code (TAC Section). The rules are also divided into chapters relating to different subjects. For example, Chapter 535 relates to the Provisions of the Real Estate License Act. Lengthy rules may be divided below the subsection level using the following structure:

§ (section)

(a) subsection

(1) paragraph

(A) subparagraph

(i) clause

(I) subclause

For convenience, rules are generally cited to the section level. For example, Subclause II, Clause v, Subparagraph I, Paragraph 2, Subsection (a) of §535.230 which relates to Real Estate Inspectors Standards of Practice, may be cited as 22 TAC §535.230(a)(2)(I)(v)(II).

Unless noted otherwise, the rules were first effective January 1, 1976.

§535.201 Definitions

The following definitions shall apply to this subchapter.

- (1) Code organization--A non-profit organization whose primary mission is to develop and advocate scientifically-based codes and standards relating to one or more of the systems found in an improvement to real estate.
- (2) Committee--The Texas Real Estate Inspector Committee.
- (3) Texas Standards of Practice/Legal/Ethics Update-Course addressing developments related to the inspection field, including the requirements of Chapter 1102, rules of the Commission, case law, and agency enforcement actions.
- (4) Trade association--A cooperative, voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

§535.206 The Texas Real Estate Inspector Committee

- (a) The functions of the Committee are as prescribed by 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 or 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) Inspector members of the Committee serve staggered six-year terms, with the terms of two inspector members expiring on February 1 of each odd-numbered year. Public members of the Committee serve staggered two year terms, with the term of one public member expiring on February 1 of each even-numbered year and the terms of two public members expiring on February 1 of each odd-numbered year. Initial appointments may be made for terms shorter than six or two years, respectively, in order to establish staggered terms. A member whose term has expired 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;
 - (2) cannot discharge the member's duties for a substantial part of the member's term;
 - (3) is absent from more than half of the regularly scheduled Committee 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 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) A quorum of the Committee consists of five members.
- (k) The Committee shall conduct its meetings in substantial compliance with Robert's Rules of Order.
- (l) The secretary of the Committee, or in the secretary's absence, a member designated by the chair, shall prepare written minutes for each meeting and submit the minutes to the Committee for approval.
- (m) At least twice a year, the Committee Chair shall report on the activities of the Committee to the Commission. 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 rule to the Committee for development, the chair of the Committee or the chair's designee shall report to the Commission after each meeting at which the proposed rule is discussed on the Committee's consideration of the rule.
- (n) The Committee is automatically abolished on September 1, 2019 unless the Commission subsequently establishes a different date.

§535.208 Application for a License

- (a) Application
 - (1) A person who intends to be licensed by the Commission must file an application for the license:
 - (A) through the online process approved by the Commission; or
 - (B) on a form approved by the Commission for that purpose; and
 - (C) submit the required fee under §535.210 of this title.
 - (2) The Commission will reject an application submitted without a sufficient filing fee.
 - (3) The Commission may request additional information be provided to the Commission relating to an application.
- (b) General Requirements for Licensure.
 - (1) To be eligible for a real estate license, an applicant must:
 - (A) meet the following requirements at the time of the application:
 - (i) be 18 years of age;
 - (ii) meet any applicable residency requirement;
 - (iii) be a citizen of the United States or a lawfully admitted alien;
 - (B) comply with the fingerprinting, education, experience and examination requirements of the Act, Chapter 1102, or the rules of the Commission;
 - (C) meet the honesty, trustworthiness, and integrity requirements under the Act;
 - (D) provide proof of financial responsibility as required by of Chapter 1102; and
 - (E) An applicant for an apprentice inspector license must provide the Commission with the applicant's photograph prior to issuance of a license certificate.

- (2) Texas residents who enter military service and resume their Texas residence immediately upon separation from the military are not considered to have lost their Texas residence unless they have affirmatively established legal residence elsewhere.
 - (3) The fact that an individual has had disabilities of minority removed does not affect the requirement that an applicant be 18 years of age to be eligible for a license.
- (c) License for military service members, military veterans, or military spouses. This subsection applies to an applicant who is a military service member, a military veteran, or the spouse of a person serving on active duty as a member of the armed forces of the United States.
- (1) The Commission shall waive the license application and examination fees for an applicant who is:
 - (A) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or
 - (B) a military service member, 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 in this state.
 - (2) The Commission shall issue on an expedited basis a license to an applicant who holds a current certificate or license issued by a country, territory, or state other than Texas for other than Texas that has licensing requirements that are substantially equivalent to the requirements for the certificate or 69 license issued in Texas.
- (d) Credit for military service. This subsection applies to an applicant who is serving on active duty as a member of the armed forces of the United States.
- (1) The Commission shall credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.
 - (2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.
 - (3) The applicant must pass the qualifying examination for the type of license sought.
- (e) A person applying for license under subsections (c) or (d) of this section must also:
- (1) submit the Commission's approved application form for the type of license sought;
 - (2) submit the appropriate fee for that application;
 - (3) submit the supplemental form approved by the Commission applicable to subsections (c) or (d) of this section;
 - (4) provide proof of financial responsibility as required by of Chapter 1102; and
 - (5) comply with fingerprinting requirements for all license applicants and satisfy the Commission as to the applicant's honesty, trustworthiness and integrity.
- (f) The Executive Director may waive any prerequisite to obtaining a license for an applicant issued under subsection (c) or (d). Denial of application.
- (g) Terminated application. An application will be terminated and subject to no further evaluation or processing if the applicant fails to satisfy the requirements of subsection (b)(1) of this section within one year from the date the application is filed.
- (h) Denial of application.
- (1) An application for a license may be denied if the Commission determines that the applicant has failed to satisfy the Commission as to the applicant's honesty, trustworthiness and integrity or

if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title. Notice of the denial and any hearing on the denial shall be as provided in Texas Occupations Code, §1101.364, and §533.34 of this title.

- (2) Procuring or attempting to procure a license by fraud, misrepresentation or deceit or by making a material misstatement of fact in an application is grounds to deny the application or suspend or revoke the license. It is a violation of this section for a sponsoring professional inspector knowingly to make a false statement to the Commission in an application for a license for an apprentice or a real estate inspector.

§535.209 Examinations

(a) Examinations for licensure.

- (1) The examination for a real estate inspector license and for a professional inspector license consists of a national part and a state part.
- (2) The Commission adopts the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors for the national portion of the examination. For the state portion of the examination, questions shall be used which measure competency in the subject areas required for a license by Chapter 1102, and which demonstrate an awareness of its provisions relating to inspectors.
- (3) Each real estate inspector applicant must achieve a score of at least 70% on the state portion of the examination. Each professional inspector applicant must achieve a score of at least 75% on the state portion of the examination.

(b) Administration of examination. Except as otherwise required by Chapter 1102 or this section, examinations shall be conducted as provided by §535.57 of this title. An applicant is not eligible to take a qualifying examination for a license until the Commission has received evidence of completion of all education and experience required by this subchapter.

(c) Waiver of national portion of examination requirement. The Commission may waive the national portion of the examination of an applicant for a real estate or professional inspector license if the applicant:

- (1) currently holds an active real estate inspector 70 license in another state or actively practices as a home inspector in compliance with the laws of another state; and
- (2) has passed the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors.

(d) If the applicant has not satisfied all requirements within one year from the time the commission accepted an application for filing, including passing both parts of the examination, the application is terminated and a new application is required.

(e) Examination results are valid for a period of one year from the date the examination is passed. An examination is considered passed when an applicant has received a passing grade on both parts of the examination.

(f) An applicant who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless the applicant submits evidence satisfactory to the commission that the applicant has completed additional core education as follows, after the date the applicant failed the examination for the third time:

- (1) for an applicant who failed the national part of the examination, 32 hours;
- (2) for an applicant who failed the state part of the examination, 8 hours; and
- (3) for an applicant who failed both parts of the examination, 40 hours.

§535.210 Fees

- (a) The Commission shall charge and collect the following fees:
 - (1) a fee of \$60 for filing an original or reinstatement application for a license as an apprentice inspector;
 - (2) a fee of \$100 for filing an original or reinstatement application for a license as a real estate inspector, which includes a fee for transcript evaluation;
 - (3) a fee of \$120 for filing an original or reinstatement application for a license as a professional inspector, which includes a fee for transcript evaluation;
 - (4) a fee of \$30 for the timely renewal of the license of an apprentice inspector;
 - (5) a fee of \$50 for the timely renewal of the license of a real estate inspector;
 - (6) a fee of \$60 for the timely renewal of the license of a professional inspector;
 - (7) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;
 - (8) a fee equal to 2 times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;
 - (9) a fee of \$220 for taking a license examination consisting of a national portion and a state portion or retaking the national part of the license examination;
 - (10) a fee. of \$60 for taking a license examination without a national portion or retaking the state part of the license examination;
 - (11) a fee of \$20 for requesting a change of a license holder name, or to establish a relationship with a sponsoring professional inspector;
 - (12) a fee of \$50 to request an inactive professional inspector license be returned to active status;
 - (13) a fee of \$40 for preparing a certificate of license history, active licensure, or sponsorship;
 - (14) a fee of \$50 for the filing of a moral character determination;
 - (15) the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system;
 - (16) a fee of \$400 for filing an application for accreditation of a qualifying inspector education program for a period of four years;
 - (17) after initial approval of accreditation, a fee of \$200 a year for operation of a qualifying inspector education program;
 - (18) a fee of \$50 plus \$10 per classroom hour approved by the Commission for each qualifying inspector education course for a period of four years;
 - (19) a fee of \$400 for filing an application for accreditation as a continuing inspector education provider for a period of two years;
 - (20) a fee of \$50 plus \$5 per classroom hour approved by the Commission for each continuing inspector education course for a period of two years;
 - (21) a fee of \$50 for the filing of an application for approval as an instructor for a two-year period for qualifying or continuing inspector education courses;

- (22) a fee of \$30 for processing a check or other equivalent instrument returned by a bank or depository as dishonored for insufficient funds;
 - (23) a fee of \$10 for deposit in the real estate inspection recovery fund upon an applicant's successful completion of an examination;
 - (24) fee of \$20 for filing any application, renewal, change request, or other record on paper that a person may otherwise file with the Commission electronically by accessing the Commission's website, entering the required information online, and paying the appropriate fee; and
 - (25) the fee charged by the Federal Bureau of Investigation and Texas Department of Public Safety for fingerprinting or other service for a national or state criminal history check in connection with a license application or renewal.
- (b) Fees established by this section must be paid when an application is filed and are not refundable once an application has been accepted for filing.
 - (c) If the Commission receives an application that requires payment of a fee, and a sufficient fee was not submitted with the application, the Commission will return the application and notify the person filing the application that the person must pay the fee before the application will be processed.

§535.211 Professional Liability Insurance, or Any Other Insurance that Provides Coverage for Violations of Subchapter G of Chapter 1102

- (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, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, before the license will be issued.
- (b) An inspector must maintain financial responsibility during the period the license is active.
- (c) The applicant must provide proof of insurance using a Certificate of Insurance form approved by the Commission and signed by the applicant's insurance agent, or any other proof of insurance acceptable to the Commission.
- (d) An inspector must notify the Commission within 10 days of the cancellation or non-renewal of professional liability insurance coverage, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102.
- (e) An inspector must retain sufficient records of professional liability insurance coverage, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102, to document to the Commission continuous coverage for the preceding two year license period.
- (f) The requirement that an inspector carry financial responsibility does not require coverage for violations wherein providing such insurance coverage would be as against public policy.

§535.212 Education and Experience Requirements for a License

- (a) To become licensed as a real estate inspector or professional inspector, a person must satisfy:
 - (1) the education and experience requirements outlined in §1102.108 and §1102.109 of Chapter 1102; or
 - (2) the education requirements outlined in §1102.108 and §1102.109 of Chapter 1102 and the substitute experience requirements established by the Commission pursuant to §1102.111 in subsection (f) or (g) of this section.

- (b) A person may satisfy the 90-hour education requirement for licensure as a real estate inspector pursuant to subsection (a)(1) or (2) of this section by completing the following coursework:
 - (1) 10 hours in foundations;
 - (2) 8 hours in framing;
 - (3) 10 hours in building enclosure;
 - (4) 10 hours in roof systems;
 - (5) 8 hours in plumbing systems;
 - (6) 10 hours in electrical systems;
 - (7) 10 hours in heating, ventilation, and air conditioning systems;
 - (8) 8 hours in appliances;
 - (9) 4 hours in Texas Standards of Practice;
 - (10) 4 hours in Texas Standard Report Form/Report Writing; and
 - (11) 8 hours in Texas Legal/Ethics.
- (c) Effective September 1, 2013, a person may satisfy the 130-hour education requirement for licensure as a professional inspector pursuant to subsection (a)(1) or (2) of this section by completing the following coursework:
 - (1) the courses required for licensure as a real estate inspector in subsection (b) of this section;
 - (2) 8 additional hours in Texas Standard Report Form/Report Writing;
 - (3) 8 additional hours in Texas Standards of Practice/Legal/Ethics Update as defined in §535.218 of this title (relating to Continuing Education); and
 - (4) 24 additional hours in any core inspection subject(s).
- (d) For the purpose of measuring the number of inspections required to receive a license or to sponsor apprentice inspectors or real estate inspectors, the Commission considers an improvement to real property to be any unit capable of being separately rented, leased or sold, subject to the following restrictions:
 - (1) An inspection of an improvement to real property that includes the structural and equipment/systems of the unit constitutes a single inspection.
 - (2) Half credit will be given for an inspection limited to structural components only or to equipment/systems only.
 - (3) No more than 80% of the inspections for which experience credit is given may be limited to structural components only or to equipment/systems components only.
 - (4) A report addressing two or more improvements is considered a single inspection.
 - (5) The Commission may not give experience credit to the same applicant or professional inspector for more than three complete or six partial inspections per day. No more than three applicants may receive credit for the inspection of the same unit within a 30 day period, and no more than three apprentice inspectors may receive credit for an inspection of the same unit on the same day.
- (e) For the purpose of satisfying any requirement that an applicant hold a license for a period of time in order to be eligible for a license as a real estate inspector or professional inspector, the Commission shall not give credit for periods in which a license was on inactive status. An applicant for a real estate inspector license must have been licensed on active status for a total of at least three months within the 12 month period prior to the filing of the application. An applicant for a

professional inspector license must have been licensed on active status for a total of at least 12 months within the 24 month period prior to the filing of the application.

- (f) Effective January 1, 2014, a person may satisfy the substitute experience requirements for licensure as a real estate inspector pursuant to subsection (a)(2) of this section as follows:
 - (1) A person who does not have two years of experience as an architect, engineer, or engineer-in-training must:
 - (A) complete a total of 32 additional hours of core inspection coursework, which must include the following:
 - (i) 8 hours in Texas Standard Report Form/Report Writing;
 - (ii) 8 hours in Texas Standards of Practice/Legal/Ethics Update as defined in §535.218 of this title;
 - (iii) 16 hours in any core inspection subject(s); and
 - (B) either:
 - (i) complete 20 hours of field work through ride along inspection course sessions as defined in §535.218 of this title, except there may be up to 10 students per session and 12 hours of an approved interactive experience training module;
 - (ii) complete 8 hours of field work through ride along inspection course sessions as defined in §535.218 of this title, except there may be up to 10 students per session and 30 hours of an approved interactive experience training module;
 - (iii) upon delivery of a Commission approved affidavit form that the applicant is unable to reasonably complete clause (i) or (ii) of this subparagraph, complete 60 hours of an approved interactive experience training module presented by a licensed professional inspector; or
 - (iv) have three years of experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real property and provide two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.
 - (2) A person who has at least two years of experience as an active practicing licensed or registered architect, professional engineer, or engineer-in-training must:
 - (A) complete a total of 16 additional hours of core inspection coursework, which must include the following:
 - (i) 8 hours in Texas Standard Report Form/Report Writing; and
 - (ii) 8 hours in Texas Standards of Practice/Legal/Ethics Update; and
 - (B) submit a license history from the regulatory agency that issued the license or registration documenting the period of practice as a licensed or registered architect, professional engineer, or engineer-in-training.
 - (3) Subsection (f)(1)(B)(iii) of this section will only be accepted to satisfy the substitute experience requirement if completed prior to March 1, 2015.
- (g) Effective January 1, 2014, a person may satisfy the substitute experience requirements for licensure as a professional inspector pursuant to subsection (a)(2) of this section as follows:

- (1) A person who does not have three years of experience as an architect, engineer, or engineer-in-training must:
 - (A) complete a total of 200 additional hours of core inspection coursework, which must include the following:
 - (i) 30 hours in foundations;
 - (ii) 30 hours in framing;
 - (iii) 24 hours in building enclosure;
 - (iv) 24 hours in roof systems;
 - (v) 16 hours in plumbing systems;
 - (vi) 24 hours in electrical systems;
 - (vii) 24 hours in heating, ventilation, and air conditioning systems;
 - (viii) 6 hours in appliances;
 - (ix) 8 hours in Standards of Practice/Legal/Ethics Update as defined in §535.218 of this title;
 - (x) 8 hours in Standard Report Form/Report writing; and
 - (xi) 6 hours in any core inspection subject(s); and
 - (B) either:
 - (i) complete 40 hours of field work through ride along inspection course sessions as defined in §535.218 of this title, except there may be up to 10 students per session and 24 hours of an approved interactive experience training module;
 - (ii) complete 16 hours of field work through ride along inspection course sessions as defined in §535.218 of this title, except there may be up to 10 students per session and 60 hours of an approved interactive experience training module;
 - (iii) upon delivery of a Commission approved affidavit form that the applicant is unable to reasonably complete clause (i) or (ii) of this subparagraph, complete 120 hours of an approved interactive experience training module presented by a licensed professional inspector; or
 - (iv) have five years of experience in a field directly related to home inspection, including but not limited to installing, servicing, repairing or maintaining the structural, mechanical and electrical systems found in improvements to real property, and provide two affidavits from persons who have personal knowledge of the applicant's work, detailing the time and nature of the applicant's relevant experience.
- (2) A person who has at least three years of experience as an active practicing licensed or registered architect, professional engineer, or engineer-in-training must:
 - (A) complete a total of 16 additional hours of core inspection coursework, which must include the following:
 - (i) 8 hours in Texas Standard Report Form/Report Writing; and
 - (ii) 8 hours in Texas Standards of Practice/Legal/Ethics Update as defined in §535.218 of this title; and
 - (B) submit a license history from the regulatory agency that issued the license or registration documenting the period of practice as a licensed or registered architect, professional engineer, or engineer-in-training.

- (3) Subsection (g)(1)(B)(iii) of this section will only be accepted to satisfy the substitute experience requirement if completed prior to March 1, 2016.
- (h) For purposes of this section:
 - (1) "core inspection coursework" means course work on the subject matters listed in §535.213(e) of this title; and
 - (2) "interactive experience training module" means education that provides regular and substantive interaction between the students and the instructor, either synchronously or asynchronously, and is delivered:
 - (A) in-person to students in the classroom; or
 - (B) through the use of one or more of the following technologies:
 - (i) the internet;
 - (ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite or wireless communications devices;
 - (iii) audio conferencing; or
 - (iv) video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in subparagraphs (B)(i) through (B)(iii) of this paragraph.

§535.213 Qualifying Real Estate Inspector Instructors and Courses

- (a) Approval of Qualifying Real Estate Inspection Instructors. Qualifying real estate inspector instructors are approved and regulated as required by §535.63 of this title.
- (b) Approval of Qualifying Real Estate Inspection Courses. Qualifying real estate inspector courses are approved and regulated as required by §535.62 of this title.
- (c) A classroom course may include up to 50% of total course time for appropriate field trips relevant to the course topic. Field trips may not be included as part of correspondence or alternative delivery courses.
- (d) A course approved to satisfy a specific subject matter requirement under §535.212 of this title must address each part of the subject as described by this section.
- (e) Approved Qualifying Courses of Study. The subjects approved for credit for qualifying inspector courses are those courses prescribed by §1102.001(5), Texas Occupations Code and the following:
 - (1) Foundations, which shall include the following topics:
 - (A) site analysis/location;
 - (B) grading;
 - (C) foundations;
 - (D) flat work;
 - (E) material;
 - (F) foundation walls;
 - (G) foundation drainage;
 - (H) foundation waterproofing and damp proofing;
 - (I) columns; and
 - (J) under floor space.
 - (2) Framing, which shall include the following topics:

- (A) flashing;
- (B) wood frame - stick/balloon;
- (C) roof structure - rafters/trusses;
- (D) floor structure;
- (E) porches/decks/steps/landings/balconies;
- (F) doors;
- (G) ceilings;
- (H) interior walls;
- (I) stairways;
- (J) guardrails/handrails/balusters;
- (K) fireplace/chimney;
- (L) sills/columns/beams/joist/sub-flooring;
- (M) wall systems/structure - headers;
- (N) rammed earth;
- (O) straw bale;
- (P) ICF;
- (Q) panelized;
- (R) masonry;
- (S) wood I joist;
- (T) roof sheathing;
- (U) wood wall;
- (V) steel wall;
- (W) wood structural panel; and
- (X) conventional concrete.

(3) Building Enclosure, which shall include the following topics:

- (A) review of foundation and roofing relation;
- (B) review of flashing;
- (C) cladding;
- (D) windows/glazing;
- (E) weather barriers;
- (F) vapor barriers;
- (G) insulation;
- (H) energy codes; and
- (I) ingress/egress.

(4) Roof Systems, which shall include the following topics:

- (A) review - rafters, roof joist, ceiling joist, collar ties, knee walls, purling, trusses, wood I joist, roof sheathing, steel framing;
- (B) roof water control;
- (C) skylights;
- (D) flashing;
- (E) ventilation/non-ventilation;
- (F) attic access;

- (G) re-roofing;
 - (H) slopes - step roof/low slope/near flat;
 - (I) materials - asphalt, fiberglass, wood shake, wood shingle, slate, clay tile, concrete tile, fiber cement (asbestos cement, mineral cement), metal, roll, build up, modified bitumen, synthetic rubber (EPDM), plastic (PVC); and
 - (J) valleys.
- (5) Plumbing Systems, which shall include the following topics:
- (A) water supply systems;
 - (B) fixtures;
 - (C) drains;
 - (D) vents;
 - (E) water heaters (gas and electric);
 - (F) gas lines; and
 - (G) hydro-therapy equipment.
- (6) Electrical Systems, which shall include the following topics:
- (A) general requirements, equipment location and clearances;
 - (B) electrical definitions;
 - (C) services;
 - (D) branch circuit and feeder requirements;
 - (E) wiring methods;
 - (F) power and lights distribution;
 - (G) devices and light fixtures; and
 - (H) swimming pool.
- (7) HVAC Systems, which shall include the following topics:
- (A) heating;
 - (B) ventilation;
 - (C) air conditioning; and
 - (D) evaporative coolers.
- (8) Appliances, which shall include the following topics:
- (A) dishwasher;
 - (B) food waste disposer;
 - (C) kitchen exhaust hood;
 - (D) range, cooktop, and ovens (electric and gas);
 - (E) microwave cooking equipment;
 - (F) trash compactor;
 - (G) bathroom exhaust fan and heater;
 - (H) whole house vacuum systems;
 - (I) garage door operator;
 - (J) doorbell and chimes; and
 - (K) dryer vents.
- (9) Texas Standards of Practice, which shall include the following topics:
- (A) review of general principles and specific Texas practice standards;

- (B) inspection guidelines for structural systems;
 - (C) inspection guidelines for electrical systems;
 - (D) inspection guidelines for heating, ventilation, and air conditioning systems;
 - (E) inspection guidelines for plumbing systems;
 - (F) inspection guidelines for appliances; and
 - (G) inspection guidelines for optional systems.
- (10) Legal/Ethics, which shall include the following topics:
- (A) Chapter 1102;
 - (B) rules of the Commission related to inspectors;
 - (C) agency enforcement action relating to inspectors; and
 - (D) related case law.
- (11) Texas Standard Report Form/Report Writing, which shall include the following topics:
- (A) use of the required inspection report form;
 - (B) allowed reproductions;
 - (C) allowed changes;
 - (D) exceptions from use of the form;
 - (E) review of typical comments for each heading in the report; and
 - (F) review of generally accepted technical writing techniques.
- (12) Other approved courses as they relate to real estate inspections, which shall include one or more of the following topics:
- (A) Environmental Protection Agency;
 - (B) Consumer Product Safety Commission; and
 - (C) general business practices.
- (f) Composite Courses.
- (1) A course that combines more than one subject into a composite course may be approved by the Commission to satisfy real estate inspector core course education requirements.
 - (2) Composite courses will not satisfy the requirements for coursework in specific subject areas, unless they are approved for a specific number of hours for each subject area.

§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 Chapter 1102.
- (b) The Commission may place an inspector on inactive status for any of the following reasons:
 - (1) the written request of the inspector to be placed on inactive status as provided for under subsection (c); or
 - (2) the inspector's failure to satisfy continuing education requirements. In addition, the inspector's license is inactive when the following occurs:
 - (A) termination of sponsorship by a professional inspector;
 - (B) the death of the inspector's sponsoring professional inspector;
 - (C) the expiration, suspension, or revocation of the license of the inspector's sponsoring professional inspector;

- (D) the failure of the license holder to provide to the Commission proof of financial responsibility as required by Chapter 1102 and on a form approved by the Commission for that purpose; or
 - (E) the expiration or non-renewal of the inspector's financial responsibility as required by Chapter 1102.
- (c) To be placed on inactive status by request, an inspector must do the following:
- (1) file a request for inactive status or submit a letter containing the inspector's name, license number and current mailing address; and
 - (2) if the inspector is a licensed professional inspector, confirm in writing that the inspector has, at least 30 days prior to filing the request for inactive status, given any real estate inspectors or apprentice real estate inspectors sponsored by the inspector written notice that the inspector will no longer be their sponsor.
- (d) A professional inspector on inactive status may apply to the Commission for return to active status by:
- (1) filing a request online or on a form approved by the Commission;
 - (2) providing the Commission with documentation that the inspector has satisfied all continuing education requirements under Chapter 1102 and this chapter; and
 - (3) submitting any required fee.
- (e) An apprentice inspector or real estate inspector who has been placed on inactive status may return to status if:
- (1) the inspector has completed all applicable continuing education requirements; and
 - (2) the inspector's sponsoring professional inspector has requested that the apprentice inspector or real estate inspector be returned to active status on a form approved by the Commission.
- (f) An inspector who applies to renew a license and pays the applicable fee, but who fails to complete any continuing education required by the Act as a condition of license renewal, shall be placed on inactive status by the Commission. The inspector must comply with the requirements of this section in order to return to active status.
- (g) If a professional inspector terminates the sponsorship of an apprentice inspector or real estate inspector, the license of the apprentice inspector or real estate inspector immediately becomes inactive.
- (h) Inactive inspectors may not perform inspections. Performance of inspections while on inactive status is grounds for disciplinary action against the inactive license holder. A professional inspector who has been placed on inactive status may not return to practice or sponsor apprentices or inspectors until the professional inspector has met the requirements to be returned to active status under this section. It is a violation of this section and grounds for disciplinary action against a professional inspector for the professional inspector to permit an inactive apprentice inspector or an inactive real estate inspector to perform inspections in association with, or on behalf of, the professional inspector.

§535.216 Renewal of License

- (a) A person licensed by the Commission under Chapter 1102 may renew the license by timely filing the prescribed application for renewal, complying with the fingerprinting and TGSLC requirements in

§535.95 of this title, paying the appropriate fee to the Commission and satisfying applicable continuing education requirements as required by Chapter 1102 and this subchapter, and providing to the Commission proof of financial responsibility as required by Chapter 1102 using a form approved by the Commission for that purpose.

- (b) A license holder also may renew an unexpired license by accessing the Commission's website, entering the required information on the renewal application form, satisfying applicable education and professional liability insurance, or any other insurance that provides coverage for violations of Subchapter G of Chapter 1102 requirements and paying the appropriate fee in accordance with the instructions provided at the site by the Commission.
- (c) The Commission shall send a renewal notice to each license holder at least 90 days prior to the expiration of the license. An apprentice inspector or a real estate inspector must be sponsored by a licensed professional inspector in order to renew a license on an active status. It is the responsibility of the license holder to apply for renewal, and failure to receive a renewal notice does not relieve the license holder of the responsibility of applying for renewal.
- (d) A license holder shall provide information requested by the Commission in connection with an application to renew a license within 30 days after the Commission requests the information. Failure to provide information requested by the Commission in connection with a renewal application within the required time is grounds for disciplinary action under the Act.
- (e) Licensed professional inspectors, real estate inspectors and apprentice inspectors may renew a license on inactive status. Inspectors are not required to complete continuing education courses as a condition of renewing a license on inactive status but must satisfy continuing education requirements before returning to active status.
- (f) If the license has expired, the license holder may not renew but must file an original application to reinstate the license and may not practice until the new license is received. If the applicant for reinstatement has held a professional inspector or real estate inspector license during the 24 months preceding the date the application is filed, no examination is required.
- (g) To renew a license on active status without any lapse in active licensure, an apprentice or real estate inspector must also submit a Real Estate Apprentice and Inspector Sponsorship Form certifying sponsorship for the period from the day after the previous license expired to the day the renewal license issued, and for the period beginning on the day after the renewal license issued. The same inspector may be the sponsor for both periods. The Commission shall renew the license on inactive status for the period(s) in which the apprentice or real estate inspector was not sponsored.
- (h) If the license has been expired for six months or more, the licensee may not renew but must file an original application to reinstate the license and may not practice until the new license is received. If the applicant for reinstatement has held a professional inspector or real estate inspector license during the 24 months preceding the date the application is filed, no examination is required.
- (i) Renewal of license for military service member. A license holder on active duty in the United States armed forces is entitled to two years of additional time to 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 during the license holder's last renewal period; and
- (2) pays the renewal application fee in effect when the previous license expired.

§535.217 Mailing Address and Other Contact Information

Each license holder shall provide a mailing address, phone number, and email address, if available, to the Commission and shall report all subsequent changes not later than the 30th day after the date of a change of any of the listed contact information. If a license holder fails to update the contact information, the last known contact information provided to the Commission is the license holder's contact information.

§535.218 Continuing Education Required for Renewal

- (a) Continuing education required for renewal.
 - (1) Prior to renewal of a real estate inspector or professional inspector license, a license holder must take the 32 hours of continuing education which shall include the following:
 - (A) 24 hours of qualifying course subjects as described in §535.213(e)(1) - (8), (11) and (12) of this title, with a maximum of 16 hours on any one single subject; and
 - (B) eight hours of Texas Standards of Practice/Legal/Ethics Update. The Texas Standards of Practice/Legal/Ethics Update is a non-elective course and must consist of the following coursework:
 - (i) 4 hours of Standards of Practice;
 - (ii) 2 hours of Legal; and
 - (iii) 2 hours of Ethics.
 - (2) A real estate inspector or professional inspector who files an application for reinstatement of a expired license within two years of the expiration date of the previous license, must provide evidence satisfactory to the Commission that the applicant has completed any continuing education that would have been otherwise required for timely renewal of the previous license had that license not expired.
- (b) Ride-along inspection course.
 - (1) Up to eight hours of continuing education credit per two year license period can be given to a license holder for completion of ride-along inspection course.
 - (2) At a minimum, a ride-along inspection course must:
 - (A) consist of one full residential property inspection; and
 - (B) review applicable standards of practice and departure provisions contained in §§535.227 - 535.233 of this title.
 - (3) In order to qualify for real estate inspector continuing education credit, a ride-along inspection course shall consist of no more than two students per session.
 - (4) The instructor of a ride-along inspection course may:
 - (A) review report writing;
 - (B) deliver a notice regarding the ride along session on a form approved by the Commission to the prospective buyer or seller of the home being inspected.
- (c) Continuing education credit for students.

- (1) Courses submitted for inspector continuing education credit must be successfully completed during the term of the current license.
 - (2) The Commission may not grant continuing education credit twice for a course with the same course content taken by a licensee within a two year period.
 - (3) Unless a real estate inspection continuing education course is offered by alternative delivery methods, completion of a final examination is not required for a license holder to receive continuing education credit for a course.
 - (4) The commission will not grant partial credit to an inspector who attends a portion of a course.
- (d) Continuing education credit for instructors.
- (1) Providers may request continuing education credit be given to instructors of real estate inspection courses subject to the following guidelines:
 - (A) instructors may receive credit for only those portions of the course which they teach; and
 - (B) instructors may receive full course credit by attending all of the remainder of the course.
 - (2) An Instructor of ride along inspection course is eligible to receive continuing education credit for a ride-along inspection course conducted by the instructor if the Commission is provided a certification of course completion within one week of completion of the course, on a form approved by the Commission.
 - (3) Instructors of ride along inspection course sessions may only receive up to 8 hours of continuing education credit for teaching the course per two year license renewal period.

§535.219 Schedule of Administrative Penalties

- (a) The Commission may suspend or revoke a license or take other disciplinary action authorized by Chapter 1102 in addition to or instead of assessing the administrative penalties set forth in this section.
- (b) The administrative penalties set forth in this section consider the criteria listed in §1101.702(b) of the Act.
- (c) An administrative penalty range of \$100 - \$1,500 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:
 - (1) §1101.652(a)(7);
 - (2) §1102.118;
 - (3) §1102.364;
 - (4) 22 TAC §535.216(d);
 - (5) 22 TAC §535.217;
 - (6) 22 TAC §535.220(a)-(d);
 - (7) 22 TAC §535.221; and
 - (8) 22 TAC §535.223.
- (d) An administrative penalty range of \$500 - \$3,000 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:
 - (1) §§1101.652(a)(3)-(4);
 - (2) §1102.301;
 - (3) 22 TAC §535.222;
 - (4) 22 TAC §535.226(d)-(e); and

- (5) 22 TAC §§535.227 - 535.233.
- (e) An administrative penalty of \$1,000 - \$5,000 per violation per day may be assessed for violations of the following sections of Chapter 1101, Chapter 1102 and this subchapter:
 - (1) §§1101.652(a)(2), (5)-(6);
 - (2) §1102.101;
 - (3) §1102.102;
 - (4) §1102.103;
 - (5) §1102.302;
 - (6) §1102.303;
 - (7) §1102.304;
 - (8) 22 TAC §535.208(f);
 - (9) 22 TAC §535.211;
 - (10) 22 TAC §535.215;
 - (11) 22 TAC §535.220(e)(1), (3)-(7); and
 - (12) 22 TAC §535.224(b)(1)-(2).
- (f) The Commission may assess an administrative penalty of up to two times that outlined under subsections (c), (d), and (e) of this section, subject to the maximum penalties authorized under §1101.702(a) of the Act, if a person has a history of previous violations.

§535.220 Professional Conduct and Ethics

- (a) The responsibility of those persons who engage in the business of performing independent inspections of improvements in real estate transactions imposes integrity beyond that of a person involved in ordinary commerce. Each inspector must maintain a high standard of professionalism, independence, objectivity and fairness while performing inspections in a real estate transaction. Each inspector license holder must also uphold, maintain, and improve the integrity, reputation, and practice of the home inspection profession.
- (b) The relationship between an inspector and a client should at a minimum meet the following guidelines.
 - (1) In accepting employment as an inspector, the inspector should protect and promote the interest of the client to the best of the inspector's ability and knowledge, recognizing that the client has placed trust and confidence in the inspector.
 - (2) In the interest of the client and the inspector's profession, the inspector should endeavor always to maintain and increase the inspector's level of knowledge regarding new developments in the field of inspection.
 - (3) The inspector should conduct the inspector's business in a manner that will assure the client of the inspector's independence from outside influence and interests that might compromise the inspector's ability to render a fair and impartial opinion regarding any inspection performed.
- (c) The relationship between an inspector and the public should at a minimum meet the following guidelines.
 - (1) The inspector should deal with the general public at all times and in all manners in a method that is conducive to the promotion of professionalism, independence and fairness to the inspector's, the inspector's business and the inspection industry.

- (2) The inspector should attempt to assist the general public in recognizing and understanding the need for inspections, whether the inspector is selected to perform such inspection or not.
 - (3) The inspector accepts the duty of protecting the public against fraud, misrepresentation or unethical practices in the field of real estate inspections.
- (d) The relationship of the inspector with another inspector should at a minimum meet the following guidelines.
- (1) The inspector should bind himself to the duty of maintaining fairness and integrity in all dealings with other inspectors and other persons performing real estate inspections.
 - (2) The inspector should cooperate with other inspectors to insure the continued promotion of the high standards of the real estate inspection profession and pledges himself to the continued pursuit of increasing competence, fairness, education and knowledge necessary to achieve the confidence of the public.
 - (3) If an inspector has knowledge of a possible violation of the rules of the Commission or Chapter 1102, the inspector should report the possible violation to the Commission.
- (e) An inspector shall comply with the following requirements.
- (1) An inspector shall not inspect a property when any compensation or future referrals depend on reported findings or on the closing or settlement of a property.
 - (2) In this section, "settlement service" means a service provided in connection with a prospective or actual settlement, and "settlement service provider" includes, but is not limited to, any one or more of the following:
 - (A) federally related mortgage loan originator;
 - (B) mortgage broker;
 - (C) title service provider;
 - (D) attorney;
 - (E) a person who prepares documents, including notarization, delivery, and recordation;
 - (F) appraiser;
 - (G) inspector;
 - (H) settlement agent;
 - (I) a person who provides mortgage insurance services;
 - (J) a person who provides services involving hazard, flood, or other casualty insurance or homeowner's warranties;
 - (K) real estate agent or broker; and
 - (L) a person who provides any other services for which a settlement service provider requires a borrower or seller to pay.
 - (3) An inspector shall not pay or receive a fee or other valuable consideration to or from any other settlement service provider for, but not limited to, the following:
 - (A) the referral of inspections;
 - (B) inclusion on a list of inspectors, preferred providers, or similar arrangements; or
 - (C) inclusion on lists of inspectors contingent on other financial agreements.
 - (4) An inspector shall not receive a fee or other valuable consideration, directly or indirectly, for referring services that are not settlement services or other products to the inspector's client without the client's consent.

- (5) This section does not prohibit an inspector from paying or receiving a fee or other valuable consideration, such as to or from a contractor, for services actually rendered.
- (6) An inspector shall not accept employment to repair, replace, maintain or upgrade systems or components of property covered by the Standards of Practice under this Subchapter on which the inspector has performed an inspection under a real estate contract, lease, or exchange of real property within 12 months of the date of the inspection.
- (7) Inspectors shall not disclose inspection results or client information without prior approval from the client. Inspectors, at their discretion, may disclose observed immediate safety hazards to occupants exposed to such hazards when feasible.
- (8) This subsection does not prohibit an inspector from:
 - (A) engaging in legal promotional or educational activities to or with settlement service providers that are not conditioned on the referral of business; or
 - (B) purchasing advertising and promoting the inspector at market rates from any person in any publication, event or media.
- (f) The inspector should make a reasonable attempt to cooperate with other professionals and related tradespersons at all times and in all manners in a method that is conducive to the promotion of professionalism, independence and fairness to the inspector, the inspector's business, and the inspection industry.
- (g) Each active real estate inspector licensed by the Commission shall provide the consumer notice adopted under §531.18 of this title by:
 - (1) displaying it in a readily noticeable location in each place of business the inspector maintains; and
 - (2) providing a link to it labeled "Texas Real Estate Commission Consumer Protection Notice", in at least a 10 point font, in a readily noticeable place on the homepage of the business website of the inspector.

§535.221 Advertisements

- (a) For the purposes of this section, advertisements are all communications created or caused to be created by a licensed inspector for the purpose of inducing or attempting to induce a member of the public to use the services of the inspector, including but not limited to the following types of communications when disseminated for this purpose: inspection reports, business cards, invoices, signs, brochures, email, the Internet, electronic transmissions, text messages, and purchased telephone directory displays and advertising by newspaper, radio and television.
- (b) Advertisements by a person licensed as an inspector must contain the name or assumed business name of the license holder. The advertisements must also contain the license number of the person. If the person is licensed as a real estate inspector or as an apprentice inspector, the advertisements must also contain the following:
 - (1) the name or assumed name of the person's sponsoring professional inspector; and
 - (2) a statement indicating that the person is sponsored by that professional inspector.
- (c) A licensed professional inspector, real estate inspector or apprentice inspector shall notify the Commission in writing within 30 days after the inspector starts or stops using a name in business other than the name in which the inspector is licensed.

- (d) Websites containing advertising by one or more inspectors must include the license number of each licensed person whose name or assumed business name appears on the website. For the purposes of an inspector's or inspection company's own website, it is sufficient for the license number(s) to appear on a single prominent page of the website, such as the main page or the "About Us" page. For the purposes of social networking websites, including websites through which license holders may transmit electronic messages to other members of the same site, it is sufficient for license number(s) to appear on the inspector's main or profile page.
- (e) The Commission may reprimand or suspend or revoke the license of a person who is found to have engaged in false or misleading advertising or to have failed to comply with provisions of this section.

§535.222 Inspection Reports

- (a) For each inspection, the inspector shall:
 - (1) prepare a written inspection report noting observed deficiencies and other items required to be reported; and
 - (2) deliver the report to the person for whom the inspection was performed within three days unless otherwise agreed in writing by the client.
- (b) The inspection report shall include:
 - (1) the name and license number of each inspector who participated in performing the inspection, as well as the name(s) and license number(s) of any supervising real estate inspector(s) and sponsoring professional inspector(s), if applicable;
 - (2) the address or other unique description of the property on each page of the report; and
 - (3) the client's name.

§535.223 Standard Inspection Report Form

The Commission adopts by reference Property Inspection Report Form REI 7-5, approved by the Commission for use in reporting inspections results. This document is published by and available from the Commission website: www.trec.texas.gov, or by writing to the Commission at Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 787112188.

- (1) Except as provided by this section, inspections performed for a prospective buyer or prospective seller of substantially complete one-to-four family residential property shall be reported on Form REI 7-5 adopted by the Commission ("the standard form").
- (2) Inspectors may reproduce the standard form by computer or from printed copies obtained from the Commission. Except as specifically permitted by this section, the inspector shall reproduce the text of the standard form verbatim and the spacing, borders and placement of text on the page must appear to be identical to that in the printed version of the standard form.
- (3) An inspector may make the following changes to the standard form:
 - (A) delete the line for name and license number, of the sponsoring inspector, if the inspection was performed solely by a professional inspector;
 - (B) change the typeface; provided that it is no smaller than a 10 point font;
 - (C) change the color of the typeface and checkboxes;
 - (D) use legal sized (8-1/2" by 14") paper;
 - (E) add a cover page to the report form;

- (F) add footers to each page of the report except the first page and may add headers to each page of the report;
- (G) place the property identification and page number at either the top or bottom of the page;
- (H) add subheadings under items, provided that the numbering of the standard items remains consistent with the standard form;
- (I) list other items in the corresponding appropriate section of the report form and additional captions, letters, and check boxes for those items;
- (J) delete inapplicable subsections of Section VI., Optional Systems, and re-letter any remaining subsections;
- (K) delete Subsection L., Other, of Section I., Structural Systems; Subsection E., Other of Section IV, Plumbing Supply, Distribution Systems and Fixtures and Subsection I., Other of Section V., Appliances;
- (L) as the inspector deems necessary:
 - (i) allocate such space for comments in:
 - (I) the "Additional Information Provided by the Inspector" section; and
 - (II) each section provided for comments for each inspected item;
 - (ii) attach additional pages of comments; or
 - (iii) both;
- (M) include a service agreement/inspection contract or contractual terms between the inspector and a client with the standard form under the "Additional Information Provided by the Inspector" section or as an attachment to the standard form; and
- (N) attach additional pages to the form if:
 - (i) it is necessary to report the inspection of a component, or system not contained in the standard form; or
 - (ii) the space provided on the form is inadequate for a complete reporting of the Inspection.
- (4) The inspector shall renumber the pages of the standard form to correspond with any changes made necessary due to adjusting the space for comments or adding additional items and shall number all pages of the report, including any addenda.
- (5) The inspector shall indicate, by checking the appropriate boxes on the form, whether each item was inspected, not inspected, not present, or deficient and explain the findings in the corresponding section in the body of the report form.
- (6) This section does not apply to the following:
 - (A) re-inspections of a property performed for the same client;
 - (B) inspections performed for or required by a lender or governmental agency;
 - (C) inspections for which federal or state law requires use of a different report;
 - (D) quality control construction inspections of new homes performed for builders, including phased construction inspections, inspections performed solely to determine compliance with building codes, warranty or underwriting requirements, or inspections required by a municipality and the builder or other entity requires use of a different report, and the first page of the report contains a notice either in bold or underlined reading substantially similar to the following: "This report was prepared for a builder or other entity in accordance with the builder's requirements. The report is not intended as a substitute for an inspection of

the property by an inspector of the buyer's choice. Standard inspections performed by a license holder and reported on Commission promulgated report forms may contain additional information a buyer should consider in making a decision to purchase." If a report form required for use by the builder or builder's employee does not contain the notice, the inspector may attach the notice to the first page of the report at the time the report is prepared by the inspector;

- (E) an inspection of a building or addition that is not substantially complete; or
- (F) inspections of a single system or component as outlined in clause (ii) of this subparagraph, provided that the first page of the report contains a notice either in bold or underlined reading substantially similar to the following: "This report was prepared for a buyer or seller in accordance with the client's requirements. The report addresses a single system or component and is not intended as a substitute for a complete standard inspection of the property. Standard inspections performed by a license holder and reported on a Commission promulgated report form may contain additional information a buyer should consider in making a decision to purchase."
 - (i) If the client requires the use of a report form that does not contain the notice, the inspector may attach the notice to the first page of the report at the time the report is prepared by the inspector.
 - (ii) An inspection is considered to be of a single system or component if the inspection only addresses one of the following or a portion thereof:
 - (I) foundation;
 - (II) framing/structure, as outlined in §535.213(e)(2) of this title;
 - (III) building enclosure;
 - (IV) roof system;
 - (V) plumbing system;
 - (VI) electrical system;
 - (VII) HVAC system;
 - (VIII) a single appliance; or
 - (IX) a single optional system as stated in the Standards of Practice.

§535.224 Practice and Procedure

- (a) Proceedings shall be conducted in the manner contemplated by §§533.1 - 533.8, 533.20, 533.30 - 533.37 and 533.40 of this title and with the Texas Government Code, Chapter 2001, et seq.
- (b) 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 maintain professional liability insurance coverage, a bond or any other security acceptable by the Commission that provides coverage for violations of Subchapter G of Chapter 1102 during the period a license is active; or
 - (2) fails to notify the Commission within 10 days of the cancellation or non-renewal of professional liability insurance coverage, a bond or any other security acceptable by the Commission that provides coverage for violations of Subchapter G of Chapter 1102.

§535.226 Sponsorship of Apprentice Inspectors and Real Estate Inspectors

- (a) An apprentice inspector or real estate inspector may be sponsored by only one licensed professional inspector.
- (b) A change in sponsorship shall be reported to the Commission immediately. If the sponsorship has ended because the professional inspector has terminated the sponsorship, the professional inspector shall immediately so notify the apprentice or real estate inspector in writing. If the sponsorship has ended because the apprentice inspector or real estate inspector has left the sponsorship, the apprentice inspector or real estate inspector shall immediately so notify the professional inspector in writing.
- (c) An apprentice inspector or real estate inspector who is on active status may act for the new sponsoring professional inspector once the Commission has been notified of the change and any required fee has been submitted. If the apprentice or real estate inspector is on inactive status, the return to active status shall be subject to the requirements of §535.215 of this title.
- (d) A licensed professional inspector is responsible for the conduct of a sponsored apprentice inspector. At a minimum, a licensed professional inspector shall provide direct supervision of the apprentice inspector by:
 - (1) accompanying the apprentice inspector during the performance of all inspections performed by the apprentice or arranging for a real estate inspector to accompany the apprentice; and
 - (2) reviewing any written inspection report prepared by the apprentice inspector for compliance with the provisions of the standards of practice adopted by the Commission.
- (e) A licensed professional inspector is responsible for the conduct of a sponsored real estate inspector. A licensed professional inspector shall provide indirect supervision in a manner which protects the public when dealing with the real estate inspector. At a minimum a professional inspector shall provide indirect supervision of the real estate inspector by:
 - (1) communicating with the real estate inspector on a regular basis about the inspections being performed by the real estate inspector; and
 - (2) reviewing on a regular basis written inspection reports prepared by the real estate inspector for compliance with the provisions of the standards of practice adopted by the Commission.
- (f) A sponsoring professional inspector may delegate the supervision of an apprentice inspector or real estate inspector to another professional inspector who is qualified to sponsor, but the sponsor remains responsible for the conduct of the sponsored inspector.

§535.227 Standards of Practice: General Provisions

- (a) Definitions.
 - (1) Accessible--In the reasonable judgment of the inspector, capable of being approached, entered, or viewed without:
 - (A) hazard to the inspector;
 - (B) having to climb over obstacles, moving furnishings or large, heavy, or fragile objects;
 - (C) using specialized equipment or procedures;
 - (D) disassembling items other than covers or panels intended to be removed for inspection;
 - (E) damaging property, permanent construction or building finish; or
 - (F) using a ladder for portions of the inspection other than the roof or attic space.

- (2) Chapter 1102--Texas Occupations Code, Chapter 1102
 - (3) Component--A part of a system.
 - (4) Cosmetic--Related only to appearance or aesthetics, and not related to performance, operability, or water penetration.
 - (5) Deficiency--In the reasonable judgment of the inspector, a condition that:
 - (A) adversely and materially affects the performance of a system, or component; or
 - (B) constitutes a hazard to life, limb, or property as specified by these standards of practice.
 - (6) Deficient--Reported as having one or more deficiencies.
 - (7) Inspect--To operate in normal ranges using ordinary controls at typical settings, look at and examine accessible systems or components and report observed deficiencies as specified by these standards of practice.
 - (8) Performance--Achievement of an operation, function or configuration relative to accepted industry standard practices with consideration of age and normal wear and tear from ordinary use.
 - (9) Report--To provide the inspector's opinions and findings on the standard inspection report form as required by §535.222 and §535.223 of this title.
 - (10) Specialized equipment--Equipment such as thermal imaging equipment, moisture meters, gas or carbon monoxide detection equipment, environmental testing equipment and devices, elevation determination devices, and ladders capable of reaching surfaces over one story above ground surfaces.
 - (11) Specialized procedures--Procedures such as environmental testing, elevation measurement, calculations and any method employing destructive testing that damages otherwise sound materials or finishes.
 - (12) Standards of practice--§§535.227 - 535.233 of this title.
 - (13) Substantially completed--The stage of construction when a new building, addition, improvement, or alteration to an existing building is sufficiently complete that the building, addition, improvement or alteration can be occupied or used for its intended purpose.
 - (14) Technically Exhaustive--A comprehensive investigation beyond the scope of a real estate inspection which would involve determining the cause or effect of deficiencies, exploratory probing or discovery, the use of specialized knowledge, equipment or procedures.
- (b) Scope.
- (1) These standards of practice define the minimum levels of inspection required for substantially completed residential improvements to real property up to four dwelling units. A real estate inspection is a non-technically exhaustive, limited visual survey and basic performance evaluation of the systems and components of a building using normal controls and does not require the use of specialized equipment or procedures. The purpose of the inspection is to provide the client with information regarding the general condition of the residence at the time of inspection. The inspector may provide a higher level of inspection performance than required by these standards of practice and may inspect components and systems in addition to those described by the standards of practice.
 - (2) General Requirements. The inspector shall:

- (A) operate fixed or installed equipment and appliances listed herein in at least one mode with ordinary controls at typical settings;
 - (B) visually inspect accessible systems or components from near proximity to the systems and components, and from the interior of the attic and crawl spaces; and
 - (C) complete the standard inspection report form as required by §535.222 and §535.223 of this title.
- (3) General limitations. The inspector is not required to:
- (A) inspect:
 - (i) items other than those listed within these standards of practice;
 - (ii) elevators;
 - (iii) detached buildings, decks, docks, fences, or waterfront structures or equipment;
 - (iv) anything buried, hidden, latent, or concealed;
 - (v) sub-surface drainage systems;
 - (vi) automated or programmable control systems, automatic shut-off, photoelectric sensors, timers, clocks, metering devices, signal lights, lightning arrestor system, remote controls, security or data distribution systems, solar panels or smart home automation components; or
 - (vii) concrete flatwork such as driveways, sidewalks, walkways, paving stones or patios;
 - (B) report:
 - (i) past repairs that appear to be effective and workmanlike except as specifically required by these standards;
 - (ii) cosmetic or aesthetic conditions; or
 - (iii) wear and tear from ordinary use;
 - (C) determine:
 - (i) insurability, warrantability, suitability, adequacy, compatibility, capacity, reliability, marketability, operating costs, recalls, counterfeit products, product lawsuits, life expectancy, age, energy efficiency, vapor barriers, thermostatic performance, compliance with any code, listing, testing or protocol authority, utility sources, or manufacturer or regulatory requirements except as specifically required by these standards;
 - (ii) the presence or absence of pests, termites, or other wood-destroying insects or organisms;
 - (iii) the presence, absence, or risk of asbestos, lead-based paint, mold, mildew, corrosive or contaminated drywall "Chinese Drywall" or any other environmental hazard, environmental pathogen, carcinogen, toxin, mycotoxin, pollutant, fungal presence or activity, or poison;
 - (iv) types of wood or preservative treatment and fastener compatibility; or
 - (v) the cause or source of a condition;
 - (D) anticipate future events or conditions, including but not limited to:
 - (i) decay, deterioration, or damage that may occur after the inspection;
 - (ii) deficiencies from abuse, misuse or lack of use;

- (iii) changes in performance of any component or system due to changes in use or occupancy;
 - (iv) the consequences of the inspection or its effects on current or future buyers and sellers;
 - (v) common household accidents, personal injury, or death;
 - (vi) the presence of water penetrations; or
 - (vii) future performance of any item;
- (E) operate shut-off, safety, stop, pressure or pressure-regulating valves or items requiring the use of codes, keys, combinations, or similar devices;
 - (F) designate conditions as safe;
 - (G) recommend or provide engineering, architectural, appraisal, mitigation, physical, surveying, realty, or other specialist services;
 - (H) review historical records, installation instructions, repair plans, cost estimates, disclosure documents, or other reports;
 - (I) verify sizing, efficiency, or adequacy of the ground surface drainage system;
 - (J) verify sizing, efficiency, or adequacy of the gutter and downspout system;
 - (K) operate recirculation or sump pumps;
 - (L) remedy conditions preventing inspection of any item;
 - (M) apply open flame or light a pilot to operate any appliance;
 - (N) turn on decommissioned equipment, systems or utility services; or
 - (O) provide repair cost estimates, recommendations, or re-inspection services.
- (4) In the event of a conflict between specific provisions and general provisions in the standards of practice, specific provisions shall take precedence.
- (5) Departure.
- (A) An inspector may depart from the inspection of a component or system required by the standards of practice only if:
 - (i) the inspector and client agree the item is not to be inspected;
 - (ii) the inspector is not qualified to inspect the item;
 - (iii) in the reasonable judgment of the inspector, conditions exist that prevent inspection of an item;
 - (iv) the item is a common element of a multi-family development and is not in physical contact with the unit being inspected, such as the foundation under another building or a part of the foundation under another unit in the same building;
 - (v) the inspector reasonably determines that conditions or materials are hazardous to the health or safety of the inspector; or
 - (vi) in the reasonable judgment of the inspector, the actions of the inspector may cause damage to the property.
 - (B) If an inspector departs from the inspection of a component or system required by the standards of practice, the inspector shall:
 - (i) notify the client at the earliest practical opportunity that the component or system will not be inspected; and
 - (ii) make an appropriate notation on the inspection report form, stating the reason the component or system was not inspected.

- (C) If the inspector routinely departs from inspection of a component or system required by the standards of practice, and the inspector has reason to believe that the property being inspected includes that component or system, the earliest practical opportunity for the notice required by this subsection is the first contact the inspector makes with the prospective client.
- (c) Enforcement. Failure to comply with the standards of practice is grounds for disciplinary action as prescribed by Chapter 1102.

§535.228 Standards of Practice: Minimum Inspection Requirements for Structural Systems

- (a) Foundations. The inspector shall:
 - (1) render a written opinion as to the performance of the foundation; and
 - (2) report:
 - (A) the type of foundations;
 - (B) the vantage point from which the crawl space was inspected;
 - (3) generally report present and visible indications used to render the opinion of adverse performance, such as:
 - (A) binding, out-of-square, non-latching doors;
 - (B) framing or frieze board separations;
 - (C) sloping floors;
 - (D) window, wall, floor, or ceiling cracks or separations; and
 - (E) rotating, buckling, cracking, or deflecting masonry cladding.
 - (4) report as Deficient:
 - (A) deteriorated materials;
 - (B) deficiencies in foundation components such as; beams, joists, bridging, blocking, piers, posts, pilings, columns, sills or subfloor;
 - (C) deficiencies in retaining walls related to foundation performance;
 - (D) exposed or damaged reinforcement;
 - (E) crawl space ventilation that is not performing; and
 - (F) crawl space drainage that is not performing.
 - (5) The inspector is not required to:
 - (A) enter a crawl space or any area where headroom is less than 18 inches or the access opening is less than 24 inches wide and 18 inches high;
 - (B) provide an exhaustive list of indicators of possible adverse performance; or
 - (C) inspect retaining walls not related to foundation performance.
- (b) Grading and drainage. The inspector shall:
 - (1) report as Deficient:
 - (A) drainage around the foundation that is not performing;
 - (B) deficiencies in grade levels around the foundation; and
 - (C) deficiencies in installed gutter and downspout systems.
 - (2) The inspector is not required to:
 - (A) inspect flatwork or detention/retention ponds (except as related to slope and drainage);
 - (B) determine area hydrology or the presence of underground water; or

- (C) determine the efficiency or performance of underground or surface drainage systems.
- (c) Roof covering materials. The inspector shall:
 - (1) inspect the roof covering materials from the surface of the roof;
 - (2) report:
 - (A) type of roof coverings;
 - (B) vantage point from where the roof was inspected;
 - (C) evidence of water penetration;
 - (D) evidence of previous repairs to the roof covering material, flashing details, skylights and other roof penetrations; and
 - (3) report as Deficient deficiencies in:
 - (A) fasteners;
 - (B) adhesion;
 - (C) roof covering materials;
 - (D) flashing details;
 - (E) skylights; and
 - (F) other roof penetrations.
 - (4) The inspector is not required to:
 - (A) determine the remaining life expectancy of the roof covering;
 - (B) inspect the roof from the roof level if, in the inspector's reasonable judgment, the inspector cannot safely reach or stay on the roof or significant damage to the roof covering materials may result from walking on the roof;
 - (C) determine the number of layers of roof covering material;
 - (D) identify latent hail damage;
 - (E) exhaustively examine all fasteners and adhesion, or
 - (F) provide an exhaustive list of locations of deficiencies and water penetrations.
- (d) Roof structures and attics. The inspector shall:
 - (1) report:
 - (A) the vantage point from which the attic space was inspected;
 - (B) approximate average depth of attic insulation;
 - (C) evidence of water penetration;
 - (2) report as Deficient:
 - (A) attic space ventilation that is not performing;
 - (B) deflections or depressions in the roof surface as related to adverse performance of the framing and decking;
 - (C) missing insulation;
 - (D) deficiencies in
 - (i) installed framing members and decking;
 - (ii) attic access ladders and access openings; and
 - (iii) attic ventilators.
 - (3) The inspector is not required to:
 - (A) enter attics or unfinished spaces where openings are less than 22 inches by 30 inches or headroom is less than 30 inches;

- (B) operate powered ventilators; or
 - (C) provide an exhaustive list of locations of deficiencies and water penetrations.
- (e) Interior walls, ceilings, floors, and doors. The inspector shall:
- (1) report evidence of water penetration;
 - (2) report as Deficient:
 - (A) deficiencies in the condition and performance of doors and hardware;
 - (B) deficiencies related to structural performance or water penetration; and
 - (C) the absence of or deficiencies in fire separation between the garage and the living space and between the garage and its attic.
 - (3) The inspector is not required to:
 - (A) report cosmetic damage or the condition of floor, wall, or ceiling coverings; paints, stains, or other surface coatings; cabinets; or countertops, or
 - (B) provide an exhaustive list of locations of deficiencies and water penetrations.
- (f) Exterior walls, doors, and windows. The inspector shall:
- (1) report evidence of water penetration;
 - (2) report as Deficient:
 - (A) the absence of performing emergency escape and rescue openings in all sleeping rooms;
 - (B) a solid wood door less than 1-3/8 inches in thickness, a solid or honeycomb core steel door less than 1-3/8 inches thick, or a 20-minute fire-rated door between the residence and an attached garage;
 - (C) missing or damaged screens;
 - (D) deficiencies related to structural performance or water penetration;
 - (E) deficiencies in:
 - (i) weather stripping, gaskets or other air barrier materials;
 - (ii) claddings;
 - (iii) water resistant materials and coatings;
 - (iv) flashing details and terminations;
 - (v) the condition and performance of exterior doors, garage doors and hardware; and
 - (vi) the condition and performance of windows and components.
 - (3) The inspector is not required to:
 - (A) report the condition of awnings, blinds, shutters, security devices, or other non-structural systems;
 - (B) determine the cosmetic condition of paints, stains, or other surface coatings; or
 - (C) operate a lock if the key is not available.
 - (D) provide an exhaustive list of locations of deficiencies and water penetrations.
- (g) Exterior and interior glazing. The inspector shall:
- (1) report as Deficient:
 - (A) insulated windows that are obviously fogged or display other evidence of broken seals;
 - (B) deficiencies in glazing, weather stripping and glazing compound in windows and doors; and
 - (C) the absence of safety glass in hazardous locations.
 - (2) The inspector is not required to:
 - (A) exhaustively inspect insulated windows for evidence of broken seals;

- (B) exhaustively inspect glazing for identifying labels; or
 - (C) identify specific locations of damage.
- (h) Interior and exterior stairways. The inspector shall:
- (1) report as Deficient:
 - (A) spacing between intermediate balusters, spindles, or rails for steps, stairways, guards, and railings that permit passage of an object greater than 4 inches in diameter, except that on the open side of the staircase treads, spheres less than 4-3/8 inches in diameter may pass through the guard rail balusters or spindles; and
 - (B) deficiencies in steps, stairways, landings, guardrails, and handrails.
 - (2) The inspector is not required to exhaustively measure every stairway component.
- (i) Fireplaces and chimneys. The inspector shall:
- (1) report as Deficient:
 - (A) built-up creosote in accessible areas of the firebox and flue;
 - (B) the presence of combustible materials in near proximity to the firebox opening;
 - (C) the absence of fireblocking at the attic penetration of the chimney flue, where accessible; and
 - (D) deficiencies in the:
 - (i) damper;
 - (ii) lintel, hearth, hearth extension, and firebox;
 - (iii) gas valve and location;
 - (iv) circulating fan;
 - (v) combustion air vents; and
 - (vi) chimney structure, termination, coping, crown, caps, and spark arrestor.
 - (2) The inspector is not required to:
 - (A) verify the integrity of the flue;
 - (B) perform a chimney smoke test; or
 - (C) determine the adequacy of the draft.
- (j) Porches, Balconies, Decks, and Carports. The inspector shall:
- (1) inspect:
 - (A) attached balconies, carports, and porches;
 - (B) abutting porches, decks, and balconies that are used for ingress and egress; and
 - (2) report as Deficient:
 - (A) on decks 30 inches or higher above the adjacent grade, spacings between intermediate balusters, spindles, or rails that permit passage of an object greater than four inches in diameter; and
 - (B) deficiencies in accessible components.
 - (3) The inspector is not required to:
 - (A) exhaustively measure every porch, balcony, deck, or attached carport components; or
 - (B) enter any area where headroom is less than 18 inches or the access opening is less than 24 inches wide and 18 inches high.

§535.229 Standards of Practice: Minimum Inspection Requirements for Electrical Systems

- (a) Service entrance and panels. The inspector shall:
 - (1) report as Deficient:
 - (A) a drop, weatherhead or mast that is not securely fastened to the building;
 - (B) the absence of or deficiencies in the grounding electrode system;
 - (C) missing or damaged dead fronts or covers plates;
 - (D) conductors not protected from the edges of electrical cabinets, gutters, or cutout boxes;
 - (E) electrical cabinets and panel boards not appropriate for their location; such as a clothes closet, bathrooms or where they are exposed to physical damage;
 - (F) electrical cabinets and panel boards that are not accessible or do not have a minimum of 36-inches of clearance in front of them;
 - (G) deficiencies in:
 - (i) electrical cabinets, gutters, cutout boxes, and panel boards;
 - (ii) the insulation of the service entrance conductors, drip loop, separation of conductors at weatherheads, and clearances;
 - (iii) the compatibility of overcurrent devices and conductors;
 - (iv) the overcurrent device and circuit for labeled and listed 240 volt appliances;
 - (v) bonding and grounding;
 - (vi) conductors;
 - (vii) the operation of installed ground-fault or arc- fault circuit interrupter devices; and
 - (H) the absence of:
 - (i) trip ties on 240 volt overcurrent devices or multi-wire branch circuit;
 - (ii) appropriate connections;
 - (iii) anti-oxidants on aluminum conductor terminations;
 - (iv) a main disconnecting means.
 - (2) The inspector is not required to:
 - (A) determine present or future sufficiency of service capacity amperage, voltage, or the capacity of the electrical system;
 - (B) test arc-fault circuit interrupter devices when the property is occupied or damage to personal property may result, in the inspector's reasonable judgment;
 - (C) conduct voltage drop calculations;
 - (D) determine the accuracy of overcurrent device labeling;
 - (E) remove covers where hazardous as judged by the inspector;
 - (F) verify the effectiveness of overcurrent devices; or
 - (G) operate overcurrent devices.
- (b) Branch circuits, connected devices, and fixtures. The inspector shall:
 - (1) manually test the installed and accessible smoke and carbon monoxide alarms;
 - (2) report the type of branch circuit conductors;
 - (3) report as Deficient:
 - (A) the absence of ground-fault circuit interrupter protection in all:
 - (i) bathroom receptacles;
 - (ii) garage receptacles;
 - (iii) outdoor receptacles;

- (iv) crawl space receptacles;
- (v) unfinished basement receptacles;
- (vi) kitchen countertop receptacles; and
- (vii) receptacles that are located within six feet of the outside edge of a sink;
- (B) the failure of operation of ground-fault circuit interrupter protection devices;
- (C) missing or damaged receptacle, switch or junction box covers;
- (D) the absence of:
 - (i) equipment disconnects;
 - (ii) appropriate connections, such as copper/aluminum approved devices, if branch circuit aluminum conductors are discovered in the main or sub-panel based on a random sampling of accessible receptacles and switches;
- (E) deficiencies in:
 - (i) receptacles;
 - (ii) switches;
 - (iii) bonding or grounding;
 - (iv) wiring, wiring terminations, junction boxes, devices, and fixtures, including improper location;
 - (v) doorbell and chime components;
 - (vi) smoke and carbon monoxide alarms;
- (F) improper use of extension cords;
- (G) deficiencies in or absences of conduit, where applicable; and
- (H) the absence of smoke alarms:
 - (i) in each sleeping room;
 - (ii) outside each separate sleeping area in the immediate vicinity of the sleeping rooms; and
 - (iii) in the living space of each story of the dwelling.
- (4) The inspector is not required to:
 - (A) inspect low voltage wiring;
 - (B) disassemble mechanical appliances;
 - (C) verify the effectiveness of smoke alarms;
 - (D) verify interconnectivity of smoke alarms;
 - (E) activate smoke or carbon monoxide alarms that are or may be monitored or require the use of codes;
 - (F) verify that smoke alarms are suitable for the hearing-impaired;
 - (G) remove the covers of junction, fixture, receptacle or switch boxes unless specifically required by these standards.

§535.230 Standards of Practice: Minimum Inspection Requirements for Heating, Ventilation, and Air Conditioning Systems

(a) Heating equipment. The inspector shall:

- (1) report:
 - (A) the type of heating systems;
 - (B) the energy sources;

(2) report as Deficient:

- (A) inoperative units;
- (B) deficiencies in the thermostats;
- (C) inappropriate location;
- (D) the lack of protection from physical damage;
- (E) burners, burner ignition devices or heating elements, switches, and thermostats that are not a minimum of 18 inches above the lowest garage floor elevation, unless the unit is listed for garage floor installation;
- (F) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;
- (G) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;
- (H) deficiencies in mounting and performance of window and wall units;
- (I) in electric units, deficiencies in:
 - (i) performance of heat pumps;
 - (ii) performance of heating elements; and
 - (iii) condition of conductors; and
- (J) in gas units:
 - (i) gas leaks;
 - (ii) flame impingement, uplifting flame, improper flame color, or excessive scale buildup;
 - (iii) the absence of a gas shut-off valve within six feet of the appliance;
 - (iv) the absence of a gas appliance connector or one that exceeds six feet in length;
 - (v) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings; and
 - (vi) deficiencies in:
 - (I) combustion, and dilution air;
 - (II) gas shut-off valves;
 - (III) access to a gas shutoff valves that prohibits full operation;
 - (IV) gas appliance connector materials; and
 - (V) the vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances; and

(b) Cooling equipment other than evaporative coolers. The inspector shall:

(1) report the type of systems;

(2) report as Deficient:

- (A) inoperative units;
- (B) inadequate cooling as demonstrated by its performance;
- (C) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;
- (D) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;
- (E) noticeable vibration of blowers or fans;
- (F) water in the auxiliary/secondary drain pan;

- (G) a primary drain pipe that discharges in a sewer vent;
 - (H) missing or deficient refrigerant pipe insulation;
 - (I) dirty coils, where accessible;
 - (J) condensing units lacking adequate clearances or air circulation or that has deficiencies in the fins, location, levelness, or elevation above grade surfaces;
 - (K) deficiencies in:
 - (i) the condensate drain and auxiliary/secondary pan and drain system;
 - (ii) mounting and performance of window or wall units; and
 - (iii) thermostats.
- (c) Evaporative coolers. The inspector shall:
- (1) report:
 - (A) type of systems;
 - (B) the type of water supply line;
 - (2) report as Deficient:
 - (A) inoperative units;
 - (B) inadequate access and clearances;
 - (C) deficiencies in performance or mounting;
 - (D) missing or damaged components;
 - (E) the presence of active water leaks; and
 - (F) the absence of backflow prevention.
- (d) Duct systems, chases, and vents. The inspector shall report as Deficient:
- (1) damaged duct systems or improper material;
 - (2) damaged or missing duct insulation;
 - (3) the absence of air flow at accessible supply registers;
 - (4) the presence of gas piping and sewer vents concealed in ducts, plenums and chases;
 - (5) ducts or plenums in contact with earth; and
 - (6) deficiencies in:
 - (A) filters;
 - (B) grills or registers; and
 - (C) the location of return air openings.
- (e) The inspector is not required to:
- (1) program digital thermostats or controls;
 - (2) inspect:
 - (A) for pressure of the system refrigerant, type of refrigerant, or refrigerant leaks;
 - (B) winterized or decommissioned equipment; or
 - (C) duct fans, humidifiers, dehumidifiers, air purifiers, motorized dampers, electronic air filters, multi-stage controllers, sequencers, heat reclaimers, wood burning stoves, boilers, oil-fired units, supplemental heating appliances, de-icing provisions, or reversing valves;
 - (3) operate:
 - (A) setback features on thermostats or controls;
 - (B) cooling equipment when the outdoor temperature is less than 60 degrees Fahrenheit;
 - (C) radiant heaters, steam heat systems, or unvented gas-fired heating appliances; or

- (D) heat pumps, in the heat pump mode, when the outdoor temperature is above 70 degrees;
- (4) verify:
 - (A) compatibility of components;
 - (B) tonnage match of indoor coils and outside coils or condensing units;
 - (C) the accuracy of thermostats; or
 - (D) the integrity of the heat exchanger; or
- (5) determine:
 - (A) sizing, efficiency, or adequacy of the system;
 - (B) balanced air flow of the conditioned air to the various parts of the building; or
 - (C) types of materials contained in insulation.

§535.231 Standards of Practice: Minimum Inspection Requirements for Plumbing Systems

- (a) Plumbing systems. The inspector shall:
 - (1) report:
 - (A) location of water meter;
 - (B) location of homeowners main water supply shutoff valve; and
 - (C) static water pressure;
 - (2) report as Deficient:
 - (A) the presence of active leaks;
 - (B) the lack of a pressure reducing valve when the water pressure exceeds 80 PSI;
 - (C) the lack of an expansion tank at the water heater(s) when a pressure reducing valve is in place at the water supply line/system;
 - (D) the absence of:
 - (i) fixture shut-off valves;
 - (ii) dielectric unions, when applicable;
 - (iii) back-flow devices, anti-siphon devices, or air gaps at the flow end of fixtures; and
 - (E) deficiencies in:
 - (i) water supply pipes and waste pipes;
 - (ii) the installation and termination of the vent system;
 - (iii) the performance of fixtures and faucets not connected to an appliance;
 - (iv) water supply, as determined by viewing functional flow in two fixtures operated simultaneously;
 - (v) fixture drain performance;
 - (vi) orientation of hot and cold faucets;
 - (vii) installed mechanical drain stops;
 - (viii) commodes, fixtures, showers, tubs, and enclosures; and
 - (ix) the condition of the gas distribution system.
 - (3) The inspector is not required to:
 - (A) operate any main, branch, or shut-off valves;
 - (B) operate or inspect sump pumps or waste ejector pumps;
 - (C) verify the performance of:
 - (i) the bathtub overflow;

- (ii) clothes washing machine drains or hose bibbs; or
 - (iii) floor drains;
 - (D) inspect:
 - (i) any system that has been winterized, shut down or otherwise secured;
 - (ii) circulating pumps, free-standing appliances, solar water heating systems, water-conditioning equipment, filter systems, water mains, private water supply systems, water wells, pressure tanks, sprinkler systems, swimming pools, or fire sprinkler systems;
 - (iii) inaccessible gas supply system components for leaks;
 - (iv) for sewer clean-outs; or
 - (v) for the presence or performance of private sewage disposal systems; or
 - (E) determine:
 - (i) quality, potability, or volume of the water supply; or
 - (ii) effectiveness of backflow or anti-siphon devices.
- (b) Water heaters. The inspector shall:
- (1) report:
 - (A) the energy source;
 - (B) the capacity of the units;
 - (2) report as Deficient:
 - (A) inoperative units;
 - (B) leaking or corroded fittings or tanks;
 - (C) damaged or missing components;
 - (D) the absence of a cold water shut-off valve;
 - (E) if applicable, the absence of a pan or a pan drain system that does not terminate over a waste receptor or to the exterior of the building above the ground surface;
 - (F) inappropriate locations;
 - (G) the lack of protection from physical damage;
 - (H) burners, burner ignition devices or heating elements, switches, or thermostats that are not a minimum of 18 inches above the lowest garage floor elevation, unless the unit is listed for garage floor installation;
 - (I) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;
 - (J) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;
 - (K) the absence of or deficiencies in the temperature and pressure relief valve and discharge piping;
 - (L) a temperature and pressure relief valve that failed to operate, when tested manually;
 - (M) in electric units, deficiencies in:
 - (i) performance of heating elements; and
 - (ii) condition of conductors; and
 - (N) in gas units:
 - (i) gas leaks;

- (ii) flame impingement, uplifting flame, improper flame color, or excessive scale build-up;
 - (iii) the absence of a gas shut-off valve within six feet of the appliance;
 - (iv) the absence of a gas appliance connector or one that exceeds six feet in length;
 - (v) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings;
 - (vi) deficiencies in:
 - (I) combustion and dilution air;
 - (II) gas shut-off valves;
 - (III) access to a gas shutoff valves that prohibit full operation;
 - (IV) gas appliance connector materials; and
 - (V) vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances.
- (3) The inspector is not required to:
- (A) verify the effectiveness of the temperature and pressure relief valve, discharge piping, or pan drain pipes;
 - (B) operate the temperature and pressure relief valve if the operation of the valve may, in the inspector's reasonable judgment, cause damage to persons or property; or
 - (C) determine the efficiency or adequacy of the unit.
- (c) Hydro-massage therapy equipment. The inspector shall:
- (1) report as Deficient:
 - (A) inoperative units;
 - (B) the presence of active leaks;
 - (C) deficiencies in components and performance;
 - (D) missing and damaged components;
 - (E) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish; and
 - (F) the absence or failure of operation of ground-fault circuit interrupter protection devices; and
 - (2) The inspector is not required to determine the adequacy of self-draining features of circulation systems.

§535.232 Standards of Practice: Minimum Inspection Requirements for Appliances

- (a) Dishwashers. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) rusted, missing or damaged components;
 - (4) the presence of active water leaks; and
 - (5) the absence of backflow prevention.
- (b) Food waste disposers. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components; and

- (4) the presence of active water leaks.
- (c) Range hoods and exhaust systems. The inspector shall report as Deficient:
 - (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) ducts that do not terminate outside the building, if the unit is not of a re-circulating type or configuration; and
 - (5) improper duct material.
- (d) Electric or gas ranges, cooktops, and ovens. The inspector shall report as Deficient:
 - (1) inoperative units;
 - (2) missing or damaged components;
 - (3) combustible material within thirty inches above the cook top burners;
 - (4) absence of an anti-tip device, if applicable;
 - (5) gas leaks;
 - (6) the absence of a gas shutoff valve within six feet of the appliance;
 - (7) the absence of a gas appliance connector or one that exceeds six feet in length;
 - (8) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings;
 - (9) deficiencies in:
 - (A) thermostat accuracy (within 25 degrees at a setting of 350° F);
 - (B) mounting and performance;
 - (C) gas shut-off valves;
 - (D) access to a gas shutoff valves that prohibits full operation; and
 - (E) gas appliance connector materials.
- (e) Microwave ovens. The inspector shall inspect built-in units and report as Deficient:
 - (1) inoperative units;
 - (2) deficiencies in performance or mounting; and
 - (3) missing or damaged components.
- (f) Mechanical exhaust systems and bathroom heaters. The inspector shall report as Deficient:
 - (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) ducts that do not terminate outside the building; and
 - (5) a gas heater that is not vented to the exterior of the building unless the unit is listed as an unvented type.
- (g) Garage door operators. The inspector shall report as Deficient:
 - (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) installed photoelectric sensors located more than six inches above the garage floor; and
 - (5) door locks or side ropes that have not been removed or disabled.
- (h) Dryer exhaust systems. The inspector shall report as Deficient:

- (1) missing or damaged components;
 - (2) the absence of a dryer exhaust system when provisions are present for a dryer;
 - (3) ducts that do not terminate to the outside of the building;
 - (4) screened terminations; and
 - (5) ducts that are not made of metal with a smooth interior finish.
- (i) The inspector is not required to:
- (1) operate or determine the condition of other auxiliary components of inspected items;
 - (2) test for microwave oven radiation leaks;
 - (3) inspect self-cleaning functions;
 - (4) disassemble appliances;
 - (5) determine the adequacy of venting systems; or
 - (6) determine proper routing and lengths of duct systems.

§535.233 Standards of Practice: Minimum Inspection Requirements for Optional Systems

If an inspector agrees to inspect a component described in this section, §535.227 of this title (relating to Standards of Practice: General Provisions) and the applicable provisions of this section apply.

- (1) Landscape irrigation (sprinkler) systems. The inspector shall:
 - (A) manually operate all zones or stations on the system through the controller;
 - (B) report as Deficient:
 - (i) the absence of a rain or moisture sensor,
 - (ii) inoperative zone valves;
 - (iii) surface water leaks;
 - (iv) the absence of a backflow prevention device;
 - (v) the absence of shut-off valves between the water meter and backflow device;
 - (vi) deficiencies in the performance and mounting of the controller;
 - (vii) missing or damaged components; and
 - (viii) deficiencies in the performance of the water emission devices; such as, sprayer heads, rotary sprinkler heads, bubblers or drip lines.
 - (C) The inspector is not required to inspect:
 - (i) for effective coverage of the irrigation system;
 - (ii) the automatic function of the controller;
 - (iii) the effectiveness of the sensors; such as, rain, moisture, wind, flow or freeze sensors;
or
 - (iv) sizing and effectiveness of backflow prevention device.
- (2) Swimming pools, spas, hot tubs, and equipment. The inspector shall:
 - (A) report the type of construction;
 - (B) report as Deficient:
 - (i) the presence of a single blockable main drain (potential entrapment hazard);
 - (ii) a pump motor, blower, or other electrical equipment that lacks bonding;
 - (iii) the absence of or deficiencies in safety barriers;
 - (iv) water leaks in above-ground pipes and equipment;

- (v) the absence or failure in performance of ground-fault circuit interrupter protection devices; and
 - (vi) deficiencies in:
 - (I) surfaces;
 - (II) tiles, coping, and decks;
 - (III) slides, steps, diving boards, handrails, and other equipment;
 - (IV) drains, skimmers, and valves;
 - (V) filters, gauges, pumps, motors, controls, and sweeps;
 - (VI) lighting fixtures; and
 - (VII) the pool heater that these standards of practice require to be reported for the heating system.
- (C) The inspector is not required to:
- (i) disassemble filters or dismantle or otherwise open any components or lines;
 - (ii) operate valves;
 - (iii) uncover or excavate any lines or concealed components of the system;
 - (iv) fill the pool, spa, or hot tub with water;
 - (v) inspect any system that has been winterized, shut down, or otherwise secured;
 - (vi) determine the presence of sub-surface water tables;
 - (vii) determine the effectiveness of entrapment covers;
 - (viii) determine the presence of pool shell or subsurface leaks; or
 - (ix) inspect ancillary equipment such as computer controls, covers, chlorinators or other chemical dispensers, or water ionization devices or conditioners other than required by this section.
- (3) Outbuildings. The inspector shall report as Deficient:
- (A) the absence or failure in performance of ground-fault circuit interrupter protection devices in grade-level portions of unfinished accessory buildings used for storage or work areas, boathouses, and boat hoists; and
 - (B) deficiencies in the structural, electrical, plumbing, heating, ventilation, and cooling systems that these standards of practice require to be reported for the principal building.
- (4) Private water wells. The inspector shall:
- (A) operate at least two fixtures simultaneously;
 - (B) recommend or arrange to have performed coliform testing;
 - (C) report:
 - (i) the type of pump and storage equipment;
 - (ii) the proximity of any known septic system;
 - (D) report as Deficient deficiencies in:
 - (i) water pressure and flow and performance of pressure switches;
 - (ii) the condition of accessible equipment and components; and
 - (iii) the well head, including improper site drainage and clearances.
 - (E) The inspector is not required to:
 - (i) open, uncover, or remove the pump, heads, screens, lines, or other components of the system;

- (ii) determine the reliability of the water supply or source; or
 - (iii) locate or verify underground water leaks.
- (5) Private sewage disposal (septic) systems. The inspector shall:
 - (A) report:
 - (i) the type of system;
 - (ii) the location of the drain or distribution field;
 - (iii) the proximity of any known water wells, underground cisterns, water supply lines, bodies of water, sharp slopes or breaks, easement lines, property lines, soil absorption systems, swimming pools, or sprinkler systems;
 - (B) report as Deficient:
 - (i) visual or olfactory evidence of effluent seepage or flow at the surface of the ground;
 - (ii) inoperative aerators or dosing pumps; and
 - (iii) deficiencies in:
 - (I) accessible components;
 - (II) functional flow;
 - (III) site drainage and clearances around or adjacent to the system; and
 - (IV) the aerobic discharge system.
 - (C) The inspector is not required to:
 - (i) excavate or uncover the system or its components;
 - (ii) determine the size, adequacy, or efficiency of the system; or
 - (iii) determine the type of construction used.

§535.240 Proration of Payments from the Real Estate Inspection Recovery Fund

In the event of multiple and valid pending claims against a license holder or certificate holder in excess of the limitations in §1102.359, the claims are prorated as follows.

- (1) Actual damages shall be allocated first. If the total of the eligible actual damages of all claims exceeds the maximum that may be paid from the Real Estate Inspection Recovery Fund, the actual damages are prorated, and no interest, attorney fees, or court costs are paid.
- (2) If, after allocating the actual damages as provided by paragraph (1) of this section, the limitations in §1102.359 of Chapter 1102, interest on actual damages (pre-judgment and post-judgment) are allocated second. If the total of the interest on eligible actual damages of all claims exceeds the amount remaining to be paid from the Real Estate Inspection Recovery Fund, the interest on eligible actual damages are prorated, and no other interest, attorney fees, or court costs are paid.
- (3) If, after allocating the actual damages and interest thereon as provided by paragraph (1) and (2) of this section, the limitations in §1102.359 of Chapter 1102, are not reached, other interest, attorney fees, and court costs are allocated third. If the total of the other interest, attorney fees, and court costs of all claims exceeds the amount remaining to be paid from the Real Estate Inspection Recovery Fund, the other interest, attorney fees, and court costs are prorated.