

Title 7. Banking and Securities
Part 5. Office of Consumer Credit Commissioner
Chapter 85. Pawnshops and Crafted Precious Metal Dealers
Subchapter A. Rules of Operation for Pawnshops
Division 3. Pawnshop Employee License
§85.309. Military Licensing

The Finance Commission of Texas (commission) adopts new §85.309 (relating to Military Licensing), in 7 TAC, Chapter 85, concerning Pawnshops and Crafted Precious Metal Dealers.

The commission adopts new §85.309 without changes to the proposed text as published in the August 30, 2019, issue of the *Texas Register* (44 TexReg 4611).

The commission received no written comments on the proposal.

In general, the purpose of new §85.309 is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by SB 1200, which the Texas Legislature passed in the 2019 legislative session.

Chapter 55 of the Texas Occupations Code describes licensing requirements for military service members, military veterans, and military spouses. Chapter 55 applies to licenses that "must be obtained by an individual to engage in a particular business." Tex. Occ. Code §55.001(3). Chapter 55 includes an exemption for fees or penalties based on late renewal; an expedited license application procedure for certain previously licensed individuals; and a provision to credit military service, training, or education toward licensing requirements. SB 1200 adds a new section to Chapter 55, providing that a military spouse

may engage in a licensed occupation in Texas without an applicable license, if the spouse is licensed in good standing in another jurisdiction with licensing requirements that are substantially equivalent to Texas's requirements.

Adopted new §85.309 specifies pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55. Subsection (a) explains the purpose of the section. Subsection (b) incorporates definitions from Texas Occupations Code, §55.001. Subsection (c) describes an exemption for fees or penalties based on late renewal. Subsection (d) describes the expedited license application procedure for certain previously licensed individuals. Subsection (e) describes the authority for a military spouse licensed in another jurisdiction to operate in Texas, in accordance with SB 1200. Under subsection (e), the OCCC will determine whether a license issued in another jurisdiction is substantially equivalent by reviewing applicable legal requirements in the jurisdiction, as well as the application review process in the other jurisdiction. Subsection (f) explains that military service, training, or education will be credited toward licensing requirements as part of an applicant's employment history.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review and then held a stakeholder meeting and webinar

regarding the rule changes. The OCCC did not receive any informal written precomments on the rule text draft.

Regarding the effective date of this new rule, Texas Finance Code, §371.006 contains a provision requiring notice to licensees concerning rulemaking for the pawnshop industry. In order to comply with this statutory notice requirement, the delayed effective date for the new rule will be December 1, 2019.

The new rule is adopted under Texas Occupations Code, §§55.002, 55.004(a), 55.0041(e) (as added by SB 1200), and 55.007(b), which authorize a state agency to adopt rules implementing requirements of Chapter 55 of the Texas Occupations Code. In addition, Texas Finance Code, §371.006, authorizes the Finance Commission to adopt rules to enforce Chapter 371 of the Texas Finance Code, and Texas Finance Code, §11.304 authorizes the Finance Commission to adopt rules to ensure compliance with Title 4 of the Texas Finance Code.

The statutory provisions affected by the adoption are contained in Texas Occupations Code, Chapter 55 and Texas Finance Code, Chapter 180.

Title 7, Texas Administrative Code

Chapter 85. Pawnshops and Crafted Precious Metal Dealers

Subchapter A. Rules of Operation for Pawnshops

Division 3. Pawnshop Employee License

§85.309. Military Licensing.

(a) Purpose and scope. The purpose of this section is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55. This section applies only to employees of pawnbrokers that participate in the pawnshop employee license program.

(b) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.

(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a pawnshop employee in a timely manner, if the individual establishes to the satisfaction of the OCCC that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited license procedure. As provided by Texas Occupations Code, §55.004 and §55.005, the OCCC will process a license application as soon as practicable and issue a license to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant:

(1) holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas; or

(2) held a pawnshop employee license in Texas within the five years preceding the application date.

(e) Authorization for military spouse.

(1) As provided by Texas Occupations Code, §55.0041, a military spouse may engage in business as a pawnshop employee if the spouse is currently licensed in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas.

(2) Before engaging in business in Texas, the military spouse must comply with the notification requirements described by Texas Occupations Code, §55.0041(b), and must notify the OCCC of the jurisdiction where the military spouse is licensed and how the license can be verified. If the military spouse does not obtain a pawnshop employee license in Texas, then the military spouse is limited to the time period described by Texas Occupations Code, §55.0041(d).

(3) For purposes of this section and Texas Occupations Code, §55.0041, the OCCC will determine whether the other jurisdiction's licensing requirements are substantially similar to Texas's by reviewing the applicable legal requirements that a license holder must comply with in the other jurisdiction, as well as the application review process in the other jurisdiction. The OCCC will verify a license issued in another jurisdiction by requesting records from the appropriate licensing authority.

(f) Credit toward licensing requirements. As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military veteran, the OCCC will credit verified military service, training, or education

toward the licensing requirements for a pawnshop employee license, by considering the service, training, or education as part of the applicant's employment history.

Certification

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

Issued in Austin, Texas on October 18, 2019.

Matthew J. Nance
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