

Chapter 73. Electricians

Proposal Filed: September 4, 2009 – Published in the *Texas Register*: September 18, 2009

Deadline for Public Comment: October 19, 2009

Underlined text is new language.

~~[Strike through text]~~ is deleted language.

The Texas Department of Licensing and Regulation (“Department”) proposes amendments to §§73.10, 73.20-73.24, 73.26, 73.28, 73.40, 73.65, 73.70, 73.80, and 73.90; the repeal of §§73.51-73.54, and 73.60; and new §§73.51-73.54, 73.60, and 73.91 regarding the electricians program.

The proposed amendments implement changes delineated in House Bill (“HB”) 1973, 81st Legislature, Regular Session, 2009, and changes recommended by staff to update and clarify existing rules to improve the regulation of the industry. These rule changes are proposed under the authority of the Texas Occupations Code §1305.102(a) that mandates that the executive director adopt rules for the licensing of electricians, sign electricians, electrical sign contractors, electrical contractors, residential appliance installers, and residential appliance installation contractors.

Proposed amendments to §73.10 establish definitions, in addition to those found in Chapter 1305, for terms that are used in the statute and rules. HB 1973 requires the Department to expand its regulatory authority over residential appliance installers and contractors to specifically include pool equipment installation and maintenance. Changes to facilitate HB 1973 include proposed amendments to paragraphs §73.10 (23) and (25) for pool installation and maintenance to be included in the definition of residential appliance installation and redefine residential appliance to include pool related equipment as mandated in HB 1973. Further amendments clarify “on-the-job training” and define “electro mechanical integrity”.

Proposed amendments to §73.20 and §73.21 change the application process by requiring applicants to submit proof documenting the required amount of on-the-job training with initial application instead of providing proof of a passing exam grade with initial application. Previously applicants submitted proof of a passing exam grade before their on-the-job qualifications were examined. This portion of the rule is repealed. The rule amendments provide that an applicant must be qualified for eligibility to take the exam by providing verified proof of their field experience in the appropriate number of hours for the license they wish to obtain. This section specifically limits the maximum number of on the job training hours to 2,000 per year to ensure that the standards for licensure are uniform and meet the substantive requirements for licensure. Lastly, the provision against obtaining a license by fraud or false representation have been consolidated under §73.22.

Proposed rule §73.26 is amended to clarify documentation of the job training. It provides that applicants may meet on the job experience requirements for licensure by providing verified proof in an approved form by an appropriate supervising licensee. It also amends the opportunity for an applicant to provide proof of experience under an unlicensed supervisor and under what conditions that is acceptable. Lastly, the proposed amendments to §73.26 add that a

master or master sign electrician must provide documentation of on the job experience on the request of the Department to streamline the process of prequalification for examination and to help eliminate difficulty of applicants attempting to gather documentation for prequalification for examination.

Sections 73.51, 73.52, and 73.54 are repealed and replaced to amend in greater detail the responsibilities of electrical, electrical sign, and residential appliance installation contractors. Each section is the same for each license class except for the provision under electrical and electrical sign contractors that the design of an electrical system or electrical sign system will only be done by the appropriate master electrician, master sign electrician or a design professional as authorized by statute. There is no design provision in §73.54 for it would not apply to residential appliance installation.

The common responsibility for each license class respectively include notifying the Department within 30 business days of a change in the master of record. This deadline for notification changes the previous rule by putting a timeline for reporting. However, the duty to inform the Department is unchanged. This provision was added to clarify the reporting issue for the industry and support the goal of public protection by making a consistent and timely reporting schedule for the responsible master of record. Under the same justification, the provision for record keeping was changed to make records available to the Department in Austin, Texas or at another location designated by the Department should the contractor have its principle place of business in another state.

Proposed new rule §§73.51, 73.52, and 73.54 include provisions that require a contractor to provide a safe, code-compliant electrical installation and service, not misrepresent service or the need for service, not engage in misrepresentation to induce an entity to contract for services, and ensure that the contractor's work be performed by licensed individuals. These proposed new rules are added for the benefit of public safety.

Further amendments are proposed for rule §§73.51, 73.52, and 73.54 to serve the Department's charge to protect public safety address the requirement that a contractor may subcontract work to licensed electricians provided that the contractor is responsible for compliance with applicable codes for all work performed by the subcontractor and all non-exempt work is performed by licensed individuals. These same proposed rule sections mandate that a contractor include in all advertising their name and license number with the exception of television advertisements, telephone book listings, telephone solicitations, nominal promotional gifts, and signs at the permanent business location.

Section 73.53 is being repealed and replaced to change the section heading to avoid repetitious use of similar terms in other section headings. The wording of the rule is changed to clarify that an unlicensed person who performs electrical work in violation of the statute is subject to this provision.

Section §73.60 is also being repealed and replaced to allow for similar editorial changes as described above. Additionally, proposed changes to subsection (d)(4) delete the provision that a licensee may not perform duties or work in a negligent or incompetent manner as that duty is

similarly addressed in the subsection (a) and is similarly prescribed under the general charge of “competency” and is mirrored in the “workmanlike” standard required for all work in the adopted National Electric Code.

The proposed amendments to §73.65 note that travel expenses incurred on behalf of board business can be reimbursed for advisory board members when the legislature has specifically authorized reimbursement for travel and according to reimbursement policies for eligible advisory boards.

The proposed amendments to §73.80 lowers the application fee for a residential appliance installation contractor from \$125 to \$115 and reduces the application fee for a residential appliance installer from \$40 to \$35. The Department is required to set fees in amounts reasonable and necessary to cover the costs of administering the programs under its jurisdiction. The proposed revised fees for these contractors is sufficient to cover the costs and does not adversely affect the administration and enforcement of the program.

The proposed amendments to §73.90 make minor technical corrections.

Proposed new §73.91 regarding enforcement authority is added to inform the regulated industry of the Department’s expanded enforcement authority under Texas Occupations Code, Chapter 51 that may not be included in the specific program statute.

The substance of these rule changes was recommended by the Electrical Safety and Licensing Advisory Board (“Board”) at its meeting on September 1, 2009. Other non-substantive grammatical and editorial changes are proposed.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendments, repeals, and new rules are in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendments, repeals, and new rules are in effect, the public benefit will be added protection for the public health and safety. Additionally, the application process will be more efficient by assuring that 1) only qualified applicants take the examination for licensure and that 2) applicants having difficulty obtaining verification from previous jobs have a resource in the Department to assist them in getting their documentation to qualify them for examination. The result will be realized efficiency for the program and the industry at large.

There is no anticipated adverse economic effect on small or micro-business or to persons who are required to comply with the rules as proposed.

There is no anticipated potential economic impact of this rule proposal on small or micro businesses. While the requirement to place the contractor’s license number in advertising may involve some minimal cost, the Department believes that this cost would not be significant and would not adversely impact licensees. Since the agency has determined that the rules will have no adverse economic effect on small or micro businesses preparation of an Economic Impact

Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

Comments on the proposal may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to 512/475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rules are proposed under Texas Occupations Code, §51.201(b) and §51.203, which authorize the Texas Commission of Licensing and Regulation ("Commission"), the Department's governing body, to adopt rules as necessary to implement Chapter 51 and any other law establishing a program regulated by the Department. Also, the amendments and new rules are proposed under Texas Occupations Code, Chapter 1305 which authorizes the Executive Director of the Department and the Commission to adopt rules as necessary to implement this chapter.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1305. No other statutes, articles, or codes are affected by the proposal.

§73.10. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

(1) **Assumed name**--A name used by a business as defined in the Business and Commerce Code, Title 4, Chapter 36, Subchapter A, §36.02.

(2) **Business affiliation**--The business organization to which a master licensee may assign his or her license.

(3) **Employee**--An individual who performs tasks assigned to him by his employer. The employee is subject to the deduction of social security and federal income taxes from his pay. An employee may be full time, part time, or seasonal.

(4) **Employer**--One who employs the services of employees, pays their wages, deducts the required social security and federal income taxes from the employee's pay, and directs and controls the employee's performance.

(5) **Filed**--A document is deemed to have been filed with the department on the date that the document has been received by the department or, if the document has been mailed to the department, the date a postmark is applied to the document by the U.S. Postal Service.

(6) **General Supervision**--Exercise of oversight by a master electrician on behalf of an electrical contractor, or electrical sign contractor, or by a master sign electrician on behalf of an electrical sign contractor of performance by all classes of electrical licensees of electrical work

bearing responsibility for the work's compliance with applicable codes under Texas Occupations Code, Chapter 1305.

(7) **On-Site Supervision**--Exercise of supervision of electrical work or electrical sign work by a licensed individual other than an electrical apprentice. Continuous supervision of an electrical apprentice is not required, though the on-site supervising licensee is responsible for review and inspection of the electrical apprentice's work to ensure compliance with any applicable codes or standards.

(8) **Electrical Contractor**--A person, or entity, licensed as an electrical contractor, that is in the business of performing "Electrical Contracting" as defined by Texas Occupations Code, §1305.002(5).

(9) **Master Electrician**--An individual, licensed as a master electrician, who on behalf of an electrical contractor, electrical sign contractor, or employing governmental entity, performs "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(10) **Journeyman Electrician**--An individual, licensed as a journeyman electrician, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity, while performing "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(11) **Electrical Apprentice**--An individual, licensed as an apprentice who works under the on-site supervision of a master electrician, [a] journeyman electrician, or [a] residential wireman, on behalf of an electrical contractor or employing governmental entity performing "Electrical Work" as defined by Texas Occupations Code, §1305.002(11).

(12) **Electrical Sign Contractor**--A person, or entity, licensed as an electrical sign contractor, that is in the business of performing "Electrical Sign Contracting" as defined by Texas Occupations Code, §1305.002(9).

(13) **Master Sign Electrician**--An individual, licensed as a master sign electrician, who, on behalf of an electrical sign contractor, performs "Electrical Sign Work" as defined in paragraph (18) [~~of this section~~].

(14) **Journeyman Sign Electrician**--An individual, licensed as a journeyman sign electrician, who works under the general supervision of a master electrician or a master sign electrician, on behalf of an electrical sign contractor, while performing "Electrical Sign Work" as defined in paragraph (18) [~~of this section~~].

(15) **Residential Wireman**--An individual, licensed as a residential wireman, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity, while performing electrical work that is limited to electrical installations in single family and multifamily dwellings not exceeding four stories, as defined by Texas Occupations Code, §1305.002(13).

(16) **Maintenance Electrician**--An individual, licensed as a maintenance electrician, who works under the general supervision of a master electrician, on behalf of an electrical contractor, or employing governmental entity while performing [~~and performs~~] "Electrical Maintenance Work" as defined in paragraph (17) [~~of this section~~].

(17) **Electrical Maintenance Work**--The replacement, or repair of existing electrical appurtenances, apparatus, equipment, machinery, or controls used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property, or premises. All replacements or repairs must be of the same rating and type as the existing installation. No improvements may be made that are necessary to comply with applicable codes under Texas Occupations Code, Chapter 1305. Electrical maintenance work does not include the installation of any new electrical appurtenances, apparatus, equipment, machinery, or controls beyond the scope of any existing electrical installation.

(18) **Electrical Sign Work**--Any labor or material used in manufacturing, installing, maintaining, extending, connecting or reconnecting an electrical wiring system and its appurtenances, apparatus or equipment used in connection with signs, outline lighting, awnings, signals, light emitting diodes, and the repair of existing outdoor electric discharge lighting, including parking lot pole lighting. This also includes the installation of an electrical service integral to an isolated sign and/or outline lighting installation.

(19) **Work Involved in the Manufacture of Electrical Equipment**--Work involved in the manufacture of electrical equipment includes on and off-site manufacture, commissioning, testing, calibration, coordination, troubleshooting, evaluation, repair or retrofits with components of the same ampacity, maintenance and servicing of electrical equipment within their enclosures performed by authorized employees, or authorized representatives of electrical equipment manufacturers and limited to the type of products they manufacture.

(20) **Electrical Sign Apprentice**--An individual, licensed as an electrical sign apprentice who works under the on-site supervision of a master electrician, a master sign electrician, or a journeyman sign electrician, on behalf of an electrical sign contractor performing "Electrical Sign Work" as defined by this chapter [~~these rules~~].

(21) **A Principal Place of Business**--For purposes of this chapter [~~these rules~~], a contractor has a principal place of business in another state or territory or foreign country if the contractor is doing business in Texas without complying with all applicable Texas statutes and the contractor conducts substantial business in another state, territory or country while business conducted by the contractor in Texas is minimal.

(22) **On-the-job Training**--Training or experience gained under the supervision of an appropriate licensee, as prescribed by Texas Occupations Code Chapter 1305, while performing electrical work as defined by Texas Occupations Code, §1305.002(11).

(23) **Residential Appliance Installer**--An individual, licensed as a residential appliance installer, who on behalf of a residential appliance installation contractor, performs electrical work that is limited to residential appliance installation including residential pool-related

electrical installation and maintenance as defined by Texas Occupations Code, §1305.002(12-b) [§1305.002(12-e)].

(24) **Residential Appliance Installation Contractor**--A person or entity licensed as a residential appliance installation contractor, that is in the business of residential appliance installation including pool-related electrical installation and maintenance as defined by Texas Occupations Code §1305.002(12-d).

(25) **Residential Appliance**--Electrical equipment that performs a specific function, and is installed as a unit in a dwelling by direct connection to an existing electrical circuit, such as water heaters, kitchen appliances, or pool related electrical device. The term does not include general use equipment such as service equipment, other electrical power production sources, or branch circuit overcurrent protection devices not installed in the listed appliance or listed pool-related electrical device.

~~[(25) A unit of electrical equipment that is designed and installed in a dwelling by direct connection to an existing electrical circuit to perform a specific function such as water heating, for example. The term does not include general use equipment, such as an electric motor, for example, that is not designed for a specific function.]~~

(26) **Offer to perform**--To make a written or oral proposal, to contract in writing or orally to perform electrical work or electrical sign work, or to advertise in any form through any medium that a person or business entity is an electrical contractor or electrical sign contractor, or that implies in any way that a person or business entity is available to contract for or perform electrical work or electrical sign work.

(27) **Electro Mechanical Integrity**--The condition of an electrical product, electrical system, or electrical equipment installed in accordance with its intended purpose and according to standards at least as strict as the standards provided by the National Electrical Code, the manufacturer's specifications, any listing or labeling on the product, and all other applicable codes or ordinances.

§73.20. Licensing Requirements--Applicant and Experience Requirements.

(a) An applicant for a license must submit the required fees with a completed application and the appropriate attachments:

(1) Applicants for Master Electrician, Master Sign Electrician, Journeyman Electrician, Journeyman Sign Electrician, Residential Wireman, Maintenance Electrician, and Residential Appliance Installer licenses must submit documentation proving the required amount of on-the-job-training [proof of a passing grade on the accepted examination].

(2) Applicants for contractor's licenses must submit proof of general liability insurance and either workers' compensation insurance or a certificate of authority to self insure, or a statement that the applicant has elected not to obtain workers' compensation insurance pursuant to Subchapter A, Chapter 406, Labor Code, with the initial and renewal applications.

(b) An applicant must complete all requirements within one year of the date the application is filed.

~~[(c) Except as provided by §73.24, each individual applicant must pass all parts of a Department accepted examination, and provide proof of a passing grade, before the applicant will be licensed. To be accepted, an examination must have been taken and passed no more than two years before the date of the application.]~~

(c) ~~[(d)]~~ For purposes of this chapter, 2,000 hours of on the job training shall be the maximum that may be earned within one year ~~[equal one year of on the job training]~~. On the job training must be established by letter(s) setting out dates of employment from persons who either employed or supervised the applicant or as required by the application. Letters must include the name and license type of the supervising person.

(d) ~~[(e)]~~ Each applicant must meet the applicable eligibility requirements as set forth in Texas ~~[the]~~ Occupations Code, §§1305.153-1305.1618.

~~[(f) Obtaining a license by fraud or false representation is grounds for denial, suspension, or revocation of a license and/or an administrative penalty.]~~

§73.21. Licensing Requirements--Examinations.

(a) To obtain a license by examination issued under this chapter: ~~[-]~~

(1) An individual applicant must submit a completed application, all necessary documentation, and appropriate fees to the Texas Department of Licensing and Regulation for review and determination of examination eligibility.

(2) An ~~[an]~~ individual applicant must achieve a passing score on ~~[successfully complete]~~ an examination approved by the executive director ~~[Executive Director]~~ of the Texas Department of Licensing and Regulation.

(b) To obtain a license without examination, an applicant must ~~[either;]~~

~~[(1)]~~ have been licensed for the preceding year by a municipality or regional licensing authority that has terminated its licensing program and have applied for a state issued license within ninety days of the date the program stopped issuing or renewing licenses. ~~[-or]~~

~~[(2) be an applicant for licensure as a residential appliance installer, and]~~

~~[(A) have completed 4,000 hours of electrical work, or appliance installation work under the supervision of a master electrician; and]~~

~~[(B) apply for licensure no later than June 1, 2008.]~~

§73.22. Licensing Requirements--General

- (a) A license issued under this chapter is valid for one year from the date of issuance and must be renewed annually.
- (b) A person shall not perform electrical work requiring a license under Title 8, Texas Occupations Code, Chapter 1305 with an expired license.
- (c) Falsifying information on an application, obtaining a license by fraud or false representation, [Falsification of information on an application] or cheating on an examination is grounds for denial, suspension, or revocation of a license and/or an administrative penalty.
- (d) An electrical contractor, an electrical sign contractor, or a residential appliance installation contractor shall not use a license number that is not assigned to that contractor by the department [~~Department~~].
- (e) A license is not transferable.
- (f) Altering a license in any way is prohibited and is grounds for a sanction and/or penalty.
- (g) If a licensee contracts with a general contractor or a home warranty company to provide installation or service that requires a license under the Act, the licensee remains responsible for the integrity of that work.
- (h) A person using the license of another person or allowing another person to use his license shall be subject to license denial, suspension, or revocation and/or assessment of an administrative penalty.

§73.23. Licensing Requirements--Renewal

- (a) Non-receipt of a license renewal notice from the department [~~Department~~] does not exempt a person, or entity, from any requirements of this chapter.
- (b) A complete request for renewal must be filed on the form approved by the department [~~Department~~] and includes all required fees by the expiration date to maintain continuous licensure.
- (c) Applications not filed by the expiration date are considered applications for late renewal and are subject to late renewal fees.
- (d) Licenses issued from a late renewal application will have an unlicensed period from the expiration date of the previous license to the issuance date of the renewed license. Electrical work [~~Work~~] that requires a license issued under this chapter shall not be performed during the unlicensed period.

§73.24. Licensing Requirements--Waiver of Examination Requirements.

(a) An applicant who is licensed in another state that has entered into a reciprocity agreement with Texas regarding licensure of electricians, sign electricians, or residential appliance installers may obtain an equivalent license in Texas without passing the examination, provided that all other licensure requirements are met, as defined by Texas Occupations Code, Chapter 1305.

(b) The examination requirement is waived if, based upon acceptable proof, the executive director [~~Executive Director~~] determines that the provisions of §73.21(b) are met.

(c) Acceptable proof of an applicant's qualifications must be presented on a form prescribed by the department [~~Department~~] that:

(1) certifies completion of the required hours of on-the-job training under the supervision of a master electrician or master sign electrician as appropriate, or

(2) is completed by the municipality or region in which the applicant was licensed for at least one year.

§73.26. Documentation of Required On-The-Job Training.

(a) Individual applicants [~~for electrical licenses and electrical sign licenses~~] may meet requirements for [~~establish required~~] on-the-job training by providing verified proof, in a form acceptable to the department, [~~under a master electrician or a master sign electrician by~~] showing that the applicant has been supervised for the requisite period by one or more persons licensed [~~who meet any one of the following:~~]

[~~(1) licensure~~] by any jurisdiction as a master electrician or master sign electrician as appropriate for the license. [~~or,~~]

[~~(2) a person not licensed as an electrician, who during the period of supervision of the applicant, had experience working in a position having overall responsibility for electrical work, or electrical sign work, as appropriate, that is acceptable in the trade for a business that performed such work in an area where no municipal or regional electrical license, or electrical sign license, was required.~~]

(b) Individual applicants may meet requirements for on-the-job training by providing proof of experience gained prior to September 1, 2004 under the supervision of an unlicensed supervisor. That supervisor must have had overall responsibility for electrical work or electrical sign work as was acceptable in the trade for a business in an area where no municipal or regional electrical license or electrical sign license was required. This proof must be submitted in a form acceptable to the department and include:

[~~(b) Proof of a non-licensed supervising person's experience may be established by providing on a form acceptable to the department:~~]

(1) a verified statement from the owner or manager of the [a] business stating [described in subsection (a)(2) of this section,] that the applicant's unlicensed supervisor [supervising person during the period the person supervised electrical work performed by the applicant,] had overall responsibility for electrical work, or electrical sign work, as appropriate, performed by the business during the period of employment reported; or,

(2) a verified statement by the unlicensed supervisor [supervising person] that he or she was the owner of a business [described in subsection (a) (2) of this section] with overall responsibility for work performed by the business, and that he or she supervised the applicant in the performance of electrical work or electrical sign work, as appropriate, during the period of employment reported; or,

(3) when statements described in paragraph (1) and (2) [of this subsection] are not available;

(A) the applicant's verified statement setting out the period of employment, the nature of relevant work provided by the business, the nature of work performed by the applicant, the name and title of supervising persons, that the supervising persons had overall responsibility for electrical work, or electric sign work, as appropriate, and an explanation why a statement under either paragraph (1) or (2) [of this subsection] is not available; and,

(B) documentation showing applicant's relationship to the business for the relevant period, such as:

(i) payroll records;

(ii) applicant's personal tax records; or,

(iii) other records acceptable to the department that provide proof of applicant's relationship to the business for the relevant period.

(c) When the applicant has been supervised by an unlicensed [a non-licensed] person, the existence of the business described in subsection (b) [(a)(2) of this section] must be established by providing documentation for the relevant period, such as:

(1) invoices showing work performed;

(2) tax records of the business;

(3) approval of electrical work, or electrical sign work, as appropriate, by officials from jurisdictions having authority over the work, but where no license was required;

(4) yellow page and newspaper advertisements (must include date); or

(5) other records acceptable to the department that provide proof of the business existence.

(d) A master electrician and master sign electrician shall provide verified documentation of the

on-the-job training hours of a person they have supervised upon request of the department.

§73.28. Licensing Requirements--Emergency Licenses.

(a) The executive director may grant emergency electrician licenses when:

(1) in response to an emergency as defined by Gov. Code, §418.004, a state of disaster is declared by;

(A) the Governor pursuant to Gov. Code, §418.014; or,

(B) the presiding officer of the governing body of a local governmental entity pursuant to Gov. Code, §418.108, and,

(2) the executive director determines that a sufficient number of persons holding electrical licenses recognized under Texas Occupations Code, Chapter 1305 is not available to perform electrical work needed to timely respond to the disaster.

(b) To obtain an emergency license, an applicant must:

(1) be currently licensed by another state of the United States to perform electrical work in the licensing state; and,

(2) submit a completed application on a form acceptable to the department, along with appropriate attachments and the required fee.

(c) Emergency licenses will be classified as master, master sign, journeyman, journeyman sign, residential wireman, or maintenance electrician and will be issued to applicants at a level equivalent to the license the applicant holds in another state.

(d) An emergency license will expire ninety days after issuance, and:

(1) is valid only in the disaster area designated by the governor, or in the jurisdiction of a local governmental entity declaring a disaster;

(2) is valid only during the time of a declared disaster and its declared recovery period, if any; and

(3) may be renewed for an additional ninety days if:

(A) the declared disaster and any applicable recovery period continue on the eightieth day of the emergency license;

(B) the executive director determines, at that time, that a sufficient number of persons holding electrical licenses recognized under Texas Occupations Code, Chapter 1305 is not available to perform electrical work needed to timely respond to the disaster; and,

(C) submits a completed renewal application on a form acceptable to the department, along with appropriate attachments and the required fee.

(e) A person holding an emergency license must perform electrical work:

(1) on behalf of an electrical contractor, an electrical sign contractor, or an employing governmental entity; and,

(2) in compliance with all applicable statutes, administrative rules, and ordinances.

(f) The fee for emergency licenses will be the amount set out in §73.80 for the class of emergency license issued.

§73.40. Insurance Requirements.

(a) Electrical contractors, electrical sign contractors, and residential appliance installation contractors are required to maintain at least the minimum general liability insurance coverages at all times to satisfy proof of financial responsibility.

(1) The insurance must be at least \$300,000 per occurrence (combined for property damage and bodily injury);

(2) be at least \$600,000 aggregate (total amount the policy will pay for property damage and bodily injury coverage); and

(3) be at least \$300,000 aggregate for products and completed operations.

(b) A license applicant or licensee shall file with the department [~~Department~~] a completed certificate of insurance or other evidence satisfactory to the department [~~Department~~] when applying for initial and renewal licenses and upon request of the department [~~Department~~].

(c) Proof of the required general liability and workers' compensation insurance can be submitted on an industry standard certificate of insurance form with a 30-day [~~30-day~~] cancellation notice. Workers' compensation coverage may be established by a certificate of authority to self-insure, or an applicant may state that it has elected not to obtain workers' compensation coverage.

(d) A licensed contractor shall furnish the name of the insurance carrier, policy number, name, address, and telephone number of the insurance agent with whom the contractor [~~contracting company~~] is insured to any customer who requests it.

(e) Insurance must be obtained from an admitted company or an eligible surplus lines carrier, as defined in the Texas Insurance Code, Chapter 981, or other insurance companies that are rated by A.M. Best Company as B+ or higher.

§73.51. Electrical Contractors' Responsibilities.

(a) An electrical contractor shall:

(1) notify the department when a new master electrician of record is assigned to the contractor and notify the department within thirty business days from the date that the master electrician's employment with the contractor ended;

(2) maintain employee records and records of all work performed on its behalf for a period of four years after completion of the work, and shall make those records available to the department at the contractor's place of business during normal business hours for inspection and copying. If the contractor's principle place of business is located out of the state of Texas, the department may require the contractor to make records available to the department at its offices in Austin, Texas or another location agreed upon by the department and the contractor.

(b) A person or contractor that performs or offers to perform electrical work shall:

(1) provide safe and proper installation and service, and assure the electro-mechanical integrity of all work and installations are to applicable code;

(2) not misrepresent the need for services, services to be provided, or services that have been provided;

(3) not make a fraudulent promise or false statement to influence, persuade, or induce an individual or a entity to contract for services; and

(4) ensure that all of an electrical contractor's electrical work shall be performed by licensed individuals.

(c) An electrical contractor may subcontract portions of the electrical work requiring a license to other licensed electricians.

(1) the electrical contractor is responsible for compliance with applicable codes for all such electrical work performed by the subcontractor; and

(2) all non-exempt electrical work subcontracted shall be performed by licensed individuals.

(d) The design of an electrical system shall only be done by a licensed master electrician or design professional as authorized by statute. The design shall not be subcontracted to an unlicensed person, firm or corporation.

(e) A licensed electrical contractor shall display its name and license number on both sides of each vehicle owned or operated by the business and used in the conduct of electrical work. Lettering shall be of a contrasting color and at least two inches in height. The license number shall be preceded by the letters "TECL".

(f) All advertising by electrical contracting companies designed to solicit electrical business shall include the electrical contractor's name and license number. This includes business cards. The following advertising does not require the license number:

(1) nationally placed television advertising, in which a statement indicating that license numbers are available upon request is used in lieu of the electrical contractor license number;

(2) telephone book listings that contain only the name, address, and telephone number;

(3) manufacturers' and distributor's telephone book trade ads identifying an electrical contractor;

(4) telephone solicitations, provided the solicitor states that the contractor complies with licensing requirements of the state. The electrical contractor's number must be provided upon request;

(5) promotional items of nominal value such as ball caps, tee shirts, and other gifts; or

(6) signs located on the contractor's permanent business location.

(g) The electrical contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints" shall be listed on all proposals, invoices, and written contracts.

(h) A licensed electrical contractor and its designated master electrician of record are responsible for supervision of all licensees performing work on behalf of the contractor to assure compliance with applicable statutes and rules and in particular, standards of conduct set out in this chapter.

(i) An electrical contractor shall not use a license that is not assigned to that contractor.

§73.52. Electrical Sign Contractors' Responsibilities.

(a) An Electrical Sign Contractor shall:

(1) notify the department when a new master electrician or master sign electrician of record is assigned to the contractor and notify the department within thirty business days from the date that the master electrician's employment with the contractor ended;

(2) maintain employee records and records of all work performed on its behalf for a period of four years after completion of the work, and shall make those records available to the department at the contractor's place of business during normal business hours for inspection and copying. If the contractor's principle place of business is located out of the state of Texas,

the department may require the contractor to make records available to the department at its offices in Austin, Texas or another location agreed upon by the department and the contractor.

(b) A person or contractor that performs or offers to perform electrical sign contracting shall:

(1) provide safe and proper installation and service, and assure the electro-mechanical integrity of all work and installations are to code;

(2) not misrepresent the need for services, services to be provided, or services that have been provided;

(3) not make a fraudulent promise or false statement to influence, persuade, or induce an individual or a entity to contract for services; and

(4) ensure that all of an electrical sign contractor's non-exempt electrical work shall be performed by licensed individuals.

(c) An electrical sign contractor may subcontract portions of the electrical work requiring a license to other licensed electricians.

(1) The electrical sign contractor is responsible for compliance with applicable codes for all such electrical work performed by the subcontractor; and

(2) all non-exempt electrical work subcontracted shall be performed by licensed individuals.

(d) The design of an electrical sign shall only be done by a licensed master electrician, master sign electrician, or design professional as authorized by statute. The design shall not be subcontracted to an unlicensed person, firm or corporation.

(e) A licensed electrical sign contractor shall display its name and license number on both sides of each vehicle owned or operated by the business and used in the conduct of electrical work. Lettering shall be of a contrasting color and at least two inches in height. The license number shall be preceded by the letters "TSCL".

(f) All advertising by electrical sign contracting companies designed to solicit electrical business shall include the electrical sign contractor's name and license number. This includes business cards. The following advertising does not require the license number:

(1) nationally placed television advertising, in which a statement indicating that license numbers are available upon request is used in lieu of the electrical sign contractor license number;

(2) telephone book listings that contain only the name, address, and telephone number;

(3) manufacturers' and distributor's telephone book trade ads identifying an electrical contractor;

(4) telephone solicitations, provided the solicitor states that the contractor complies with licensing requirements of the state. The electrical sign contractor's number must be provided upon request;

(5) promotional items of nominal value such as ball caps, tee shirts, and other gifts; and

(6) signs located on the contractor's permanent business location.

(g) The electrical sign contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints" shall be listed on all proposals, invoices, and written contracts.

(h) A licensed electrical sign contractor and its designated master electrician or master sign electrician of record are responsible for supervision of all licensees performing work on behalf of the contractor to assure compliance with applicable statutes and rules and in particular, standards of conduct set out in this chapter.

(i) An electrical sign contractor shall not use a license that is not assigned to that contractor.

§73.53. Responsibilities of All Persons Performing Electrical Work.

All persons must perform non-exempt electrical work or non-exempt electrical sign work in compliance with applicable codes and ordinances. The department will interpret applicable codes and ordinances for purposes of enforcement of the Act.

§73.54. Residential Appliance Installation Contractors' Responsibilities.

(a) A residential appliance installation contractor shall:

(1) notify the department when a new residential appliance installer of record is assigned to the contractor and notify the department within thirty business days from the date that the residential appliance installer's employment with the contractor ended;

(2) maintain employee records of all work performed on its behalf for a period of four years after completion of the work, and shall make those records available to the department at the contractor's place of business during normal business hours for inspection and copying. If the contractor's principle place of business is located out of the state of Texas, the department may require the contractor to make records available to the department at its offices in Austin, Texas or another location agreed upon by the department and the contractor.

(b) A person or contractor that performs or offers to perform residential appliance installation work shall:

(1) provide safe and proper installation and service, and assure the electro-mechanical integrity of all work and installations are to code;

(2) not misrepresent the need for services, services to be provided, or services that have been provided;

(3) not make a fraudulent promise or false statement to influence, persuade, or induce an individual or a entity to contract for services; and

(4) ensure that all of a residential appliance installation contractor's non-exempt electrical work shall be performed by licensed individuals.

(c) A residential appliance installation contractor may subcontract portions of the electrical work requiring a license to other licensed electricians.

(1) The residential appliance installation contractor is responsible for compliance with applicable codes for all such electrical work performed by the subcontractor; and

(2) all non-exempt electrical work subcontracted shall be performed by licensed individuals.

(d) A licensed residential appliance installation contractor shall display its name and license number on both sides of each vehicle owned or operated by the business and used in the conduct of electrical work. Lettering shall be of a contrasting color and at least two inches in height. The license number shall be preceded by the letters "TICL".

(e) All advertising by residential appliance installation contracting companies designed to solicit residential appliance installation business shall include the residential appliance installation contractor's name and license number. This includes business cards. The following advertising does not require the license number:

(1) nationally placed television advertising, in which a statement indicating that license numbers are available upon request is used in lieu of the residential appliance installation contractor license number;

(2) telephone book listings that contain only the name, address, and telephone number;

(3) manufacturers' and distributor's telephone book trade ads identifying a residential appliance installation contractor;

(4) telephone solicitations, provided the solicitor states that the contractor complies with licensing requirements of the state. The residential appliance installation contractor's number must be provided upon request;

(5) promotional items of nominal value such as ball caps, tee shirts, and other gifts; and

(6) signs located on the contractor's permanent business location.

(f) The residential appliance installation contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints" shall be listed on all proposals, invoices, and written contracts.

(g) A licensed residential appliance installation contractor and its designated residential appliance installer of record are responsible for supervision of all licensees performing work on behalf of the contractor to assure compliance with applicable statutes and rules and in particular, standards of conduct set out in this chapter.

(h) A residential appliance installation contractor shall not use a license that is not assigned to that contractor.

§73.60. Standards of Conduct for Engaging in Electrical Work.

(a) *Competency.* The licensee shall be knowledgeable of and adhere to the Act, the rules, applicable codes, and all procedures established by the department for licensees. It is the obligation of the licensee to exercise reasonable judgment and skill in the performance of all duties and work performed as a licensee.

(b) *Integrity.* A licensee shall be honest and trustworthy in the performance of all duties and work performed as a licensee, and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission. Acts or practices that constitute threats, coercion, or extortion are prohibited.

(c) *Interest.* The primary interest of the licensee is to ensure compliance with the Act, the rules, and all applicable codes. The licensee's position, in this respect, should be clear to all parties concerned while in the performance of all duties and work performed as a licensee.

(d) *Specific Rules of Conduct.* A licensee shall not:

(1) participate, whether alone or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act, the rules, or the standards adopted by the commission;

(2) furnish inaccurate, deceitful, or misleading information to the department, a consumer, or other person while engaged in the business of electrical contracting, performing, or offering to perform non-exempt electrical work; or

(3) engage in any activity that constitutes dishonesty, misrepresentation, or fraud while performing as a licensee.

§73.65. Advisory Board.

(a) Board meetings are called by the presiding officer. Meetings in excess of those mandated by the Act may be authorized by the executive director [~~Executive Director~~].

(b) Expenses reimbursed to board members shall be limited to authorized expenses incurred while on board business and traveling to and from board meetings. The least expensive method of travel should be used. Expenses can be reimbursed to board members only when the legislature has authorized reimbursement for travel [~~specifically appropriated money for that purpose~~].

(c) Expenses paid to board members shall be limited to those allowed by the State of Texas Travel Allowance Guide and the Texas Department of Licensing and Regulation policies governing travel allowances for eligible advisory boards [~~employees~~].

§73.70. Responsibility of Licensee--Standards of Conduct.

(a) An individual licensee must provide all electrical work requiring a license through a licensed contractor, or employing governmental entity.

(b) The licensee shall accurately and truthfully represent to any prospective client or employer, the licensee's capabilities and qualifications to perform the services to be rendered.

(c) The licensee shall not offer to perform, nor perform, technical services for which the licensee is not qualified by education or experience, without securing the services of another who is qualified.

(d) The licensee shall not evade responsibility to a client or employer.

(e) The licensee shall not agree to perform services if any significant financial or other interest exists that may be in conflict with:

(1) the obligation to render a faithful discharge of such services; or

(2) the service would impair independent judgment in rendering such services.

(f) The licensee should withdraw from employment when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client or employer, but then only upon reasonable notice to the client or employer. A licensee who does not withdraw must inform the consumer of the facts that give rise to the duty to withdraw.

(g) The licensed contractor shall not engage in advertising that is false, misleading, deceptive, or which does not clearly display the licensee's state license number.

(h) The licensee shall not misrepresent the amount or extent of prior education or experience to any employer or client, or to the department [~~Department~~].

(i) The licensee shall not hold out as being engaged in partnership or association with any person unless a partnership or association exists in fact.

(j) Licensees must abide by all laws and rules regulating electricians, including the Standards of Conduct set forth in this section, within any geographic location in this state when performing or offering to perform electrical work.

§73.80. Fees.

(a) Application fees:

(1) Master Electrician--\$50

(2) Master Sign Electrician--\$50

(3) Journeyman Electrician--\$35

(4) Journeyman Sign Electrician--\$35

(5) Residential Wireman--\$25

(6) Maintenance Electrician--\$25

(7) Electrical Contractor--\$115

(8) Electrical Sign Contractor--\$115

(9) Electrical Apprentice--\$20

(10) Electrical Sign Apprentice--\$20

(11) Residential Appliance Installer--~~\$35~~ [\$40]

(12) Residential Appliance Installation Contractor--~~\$115~~ [\$125]

(b) Renewal fees:

(1) Master Electrician--\$50

(2) Master Sign Electrician--\$50

(3) Journeyman Electrician--\$35

(4) Journeyman Sign Electrician--\$35

(5) Residential Wireman--\$25

(6) Maintenance Electrician--\$25

(7) Electrical Contractor--\$115

(8) Electrical Sign Contractor--\$115

(9) Electrical Apprentice--\$20

(10) Electrical Sign Apprentice--\$20

(11) Residential Appliance Installer--\$40

(12) Residential Appliance Installation Contractor--\$125

(c) Late Renewal Fees. Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

(d) Revised or duplicate license fees:

(1) All licenses except as set out below--\$25

(2) Electrical Apprentice--\$20

(3) Electrical Sign Apprentice--\$20

(e) All fees are non-refundable.

§73.90. Sanctions--Administrative Sanctions/Penalties.

If a person or entity violates any provision of Title 8, Texas Occupations Code, Chapter 1305, any provision of Title 16, Texas Administrative Code, Chapter 73, or any provision of an order of the executive director [~~Executive Director~~] or commission [~~Commission~~], proceedings may be instituted to impose administrative penalties, administrative sanctions, or both administrative penalties and sanctions in accordance with the provisions of Title 8, Texas Occupations Code, Chapters 51 and 1305.

§73.91. Enforcement Authority.

The enforcement authority granted under Texas Occupations Code, Chapters 51 and 1305 and any associated rules may be used to enforce Texas Occupations Code, Chapter 1305 and this chapter.

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

Filed with the Office of the Secretary of State, on September 4, 2009.

William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation

The repeals are proposed under Texas Occupations Code, §51.201(b) and §51.203, which authorize the Texas Commission of Licensing and Regulation (“Commission”), the Department’s governing body, to adopt rules as necessary to implement Chapter 51 and any other law establishing a program regulated by the Department. Also, the repeals are proposed under Texas Occupations Code, Chapter 1305 which authorizes the Executive Director of the Department and the Commission to adopt rules as necessary to implement this chapter.

The statutory provisions affected by the repeals are those set forth in Texas Occupations Code, Chapters 51 and 1305. No other statutes, articles, or codes are affected by the repeals.

§73.51. Electrical Contractors’ Responsibilities.

§73.52. Electrical Sign Contractor’s Responsibilities.

§73.53. Licensees’ Responsibilities.

§73.54. Residential Appliance Installation Contractors’ Responsibilities

§73.60. Standards of Conduct for Licensee

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

Filed with the Office of the Secretary of State on September 4, 2009.

William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation