

Item 8:

Consider and Take Appropriate Action on Adoption of Proposed Revisions to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

DISCUSSION AND ACTION

SUMMARY: This item provides the State Board for Educator Certification (SBEC) an opportunity to adopt, subject to State Board of Education (SBOE) review, proposed revisions to 19 Texas Administrative Code (TAC) Chapter 234, Military Service Members, Military Spouses, and Military Veterans. The proposed revisions would implement Senate Bill (SB) 1200, 86th Texas Legislature, Regular Session, 2019. The proposed revisions would allow military spouses licensed in other states, and in good standing, to teach in Texas with the credential issued by another state. Additional revisions would streamline the credentials review and certificate issuance process for all members of the military community (military service members, military spouses, and military veterans). No changes are recommended since published as proposed, but additional changes may be recommended at the time of the meeting based on public comment.

STATUTORY AUTHORITY: The statutory authority for 19 TAC Chapter 234 is the Texas Education Code (TEC), §§21.041(b)(2) and (4); 21.044(a); 21.052(b-1), (c), and (d-1); and Texas Occupations Code (TOC), §§55.001; 55.002; 55.003; 55.004; 55.0041, as added by SB 1200, 86th Texas Legislature, Regular Session, 2019; 55.005; 55.006; 55.007; 55.008; and 55.009.

TEC, §21.041(b)(2), requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates.

TEC, §21.041(b)(4), requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

TEC, §21.044(a), requires the SBEC to propose rules establishing training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program.

TEC, §21.052 (b-1), requires the SBEC to establish procedures to accurately identify military spouses and expedite processing of certification applications that they submit.

TEC, §21.052 (c), specifies the SBEC can specify the term of a temporary certificate issued under this subsection.

TEC, §21.052 (d-1), requires the SBEC to issue a three-year temporary certificate to eligible military spouses of active duty service members.

TOC, §55.001, defines key terms and identifies the individuals relevant to the processing and support of members of the military community.

TOC, §55.002, provides clarification and guidelines for implementing fee exemptions for members of the military community.

TOC, §55.003, states military service members are eligible to receive a two-year extension of time to complete requirements for license renewal.

TOC, §55.004, requires state agencies to adopt rules for issuance of licensure to members of the military community and provides alternatives to become eligible for licensure.

TOC, §55.0041, as added by SB 1200, 86th Texas Legislature, 2019, requires state agencies to adopt rules to allow military spouses licensed in other states and in good standing to practice in their occupation of expertise with the license issued in another state.

TOC, §55.005, requires state agencies to establish a process to expedite applications for licensure submitted by members of the military community.

TOC, §55.006, requires state agencies to determine renewal requirements for expedited licenses issued to members of the military community.

TOC, §55.007, provides state agencies authority to credit verified military service, training, or education toward licensing requirements.

TOC, §55.008, authorizes state agencies to credit verified relevant military service, training, or education relevant to the occupation toward the apprenticeship requirements for licensure.

TOC, §55.009, confirms state agencies that issue licensure shall waive license application and examination fees paid to the state for applicable members of the military community.

EFFECTIVE DATE: The proposed effective date of proposed revisions to 19 TAC Chapter 234 would be December 22, 2019 (20 days after filing as adopted with the *Texas Register*). The proposed effective date is based on the SBEC and SBOE meeting schedules.

PREVIOUS BOARD ACTION: At the July 26, 2019 SBEC meeting, the SBEC approved the proposed revisions to 19 TAC Chapter 234 for publication in the *Texas Register* as proposed rules.

BACKGROUND INFORMATION AND JUSTIFICATION: Chapter 234 consolidates all military-related provisions into one chapter and streamlines future military-related rulemaking opportunities. The Texas Legislature has added statutory provisions regarding teaching credentials for the military community (military service members, military spouses, and military veterans) during the last three legislative sessions:

- The 84th Texas Legislature, 2015 waived the certification fees paid by military service members, military spouses, and military veterans; established alternative methods for military groups to meet requirements for licensure; granted the commissioner authority to review applicant credentials and waive requirements for licensure; and incorporated the use of verified military service to satisfy apprenticeship requirements for licensure.
- The 85th Texas Legislature, Regular Session, 2017 provided military spouses with a three-year temporary certificate to teach in Texas.

- SB 1200, 86th Texas Legislature, 2019, allows military spouses to teach in Texas a maximum of three years with a license in good standing in another state. SB 1200 requires adoption of rules by the SBEC by December 1, 2019.

In addition to the requirements in SB 1200, which provides for increased flexibility for military spouses to teach in Texas, the SBEC would change certification processes to reduce the amount of time it takes to complete a review of credentials and issue a Texas certificate for military service members, military spouses, and military veterans licensed to teach in other states. Following is a description of the proposed revisions included in Attachment II.

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

The proposed amendment to current §234.5(e) would move that provision to new §234.7(d), regarding renewal requirements for military service members, military spouses, and military veterans.

Proposed new §234.5(e) would establish the process for military spouses to notify TEA of their intent to teach in Texas with a license issued by another state department of education for a maximum of three years. The credentials review process already in place requires individuals certified in other states to complete the online application and request the credentials review, the Texas temporary certificate, and/or the Texas standard certificate. Individuals applying for the credentials review, a required first step for all individuals certified outside of Texas, must also submit copies of all standard certificates issued by departments of education to teach in other states and official transcripts that show degree(s) conferred and date(s). Continued use of this established process would support the timely and successful implementation of this legislation.

The proposed amendment to §234.5(h) would reference the commissioner's rules concerning examination requirements in 19 TAC §152.1001 as an option for clarity and ease of reference that could be utilized by members of the military community that qualify for an exemption from required Texas tests.

§234.6. Review of Credentials and Issuance of Licensure to Military Service Members, Military Spouses, and Military Veterans.

Proposed new 19 TAC §234.6 would implement provisions specific to military spouses in SB 1200, 86th Texas Legislature, Regular Session, 2019, and would meet the legislative mandate for SBEC to adopt rules by December 1, 2019. The proposed new rule would allow military spouses licensed in other states, and in good standing, to teach in Texas with credentials issued by another state department of education. SB 1200 specifies that prior to employment, military spouses must notify the licensing agency of their intent to teach in Texas with credentials from another state and must wait for confirmation from the licensing agency that their credentials have been cleared for employment in Texas. The proposed new rule would provide for military spouses to have three options to teach in the state of Texas after successful credentials review by TEA:

- Utilization of their current licensure from another state;
- Issuance of the Texas temporary three-year certificate already prescribed in §234.5(d) of this section; or

- Issuance of a Texas standard certificate following successful completion of a criminal background check.

Proposed new §234.6 would establish provisions for alternative licensing of all members of the military community referenced in the TOC, §55.004, Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses. TOC, §55.004 provides for the issuance of a license to an applicant who is a military service member, military veteran, and military spouse. The proposed new rule would allow for the issuance of the Texas standard certificate upon completion of a successful review of credentials and the required criminal background check. Current provisions in the TOC, §55.004 allow for the SBEC to grant this opportunity to military service members and military veterans, in addition to military spouses.

§234.7. Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.

The proposed amendment to current §234.5(e) would move the provision to new §234.7(d), regarding renewal requirements for military service members, military spouses, and military veterans, to align all rule text specific to renewal and continuing education requirements in the same section.

No changes are recommended to the proposed revisions to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans, but additional changes may be recommended at the time of the meeting based on public comment.

FISCAL IMPACT: No changes have been made to this section since published as proposed. The TEA staff has determined that there is no additional fiscal impact on state and local governments and there are no additional costs to persons or entities required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: No changes have been made to this section since published as proposed. The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code (TGC), §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: No changes have been made to this section since published as proposed. The proposal has no direct adverse impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in TGC, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: No changes have been made to this section since published as proposed. The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to TGC, §2001.045.

TAKINGS IMPACT ASSESSMENT: No changes have been made to this section since published as proposed. The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under TGC, §2007.043.

GOVERNMENT GROWTH IMPACT: No changes have been made to this section since published as proposed. The TEA staff prepared a Government Growth Impact Statement

assessment for this proposed rulemaking. The proposed rulemaking would create a new regulation that allows military service members, military spouses, and military veterans to obtain and renew a Texas educator certificate following a credentials review and would limit the existing regulation that requires military service members, military spouses, and military veterans to meet the examination requirements for certificate issuance by exempting those individuals whom are already certified to teach in another state. The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: No changes have been made to this section since published as proposed. The public benefit anticipated as a result of the proposed revisions would be continued support to members of the military community, with special provisions to allow military spouses of active duty members a maximum of three years to utilize a credential issued in another state and in good standing to maintain employment in Texas. There is no anticipated cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: No changes have been made to this section since published as proposed. The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: No changes have been made to this section since published as proposed. The TEA staff has determined that the proposal would not require a written report or paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal began August 23, 2019 and ended September 23, 2019. Any public comments received will be provided to the SBEC under separate cover prior to the October 4, 2019 meeting. The SBEC will take registered oral and written comments on this item at the October 4, 2019 meeting in accordance with the SBEC board operating policies and procedures.

ASSOCIATE COMMISSIONER'S RECOMMENDATION:

Approve for adoption, subject to State Board of Education review, the proposed revisions to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans, with an effective date of 20 days after filing the adoption notice with the *Texas Register*.

Staff Member Responsible:

Marilyn Cook, Director, Educator Certification

Attachments:

- I. Statutory Citations
- II. Text of Proposed Revisions to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans

ATTACHMENT I**Statutory Citations Relating to Proposed Revisions to 19 TAC Chapter 234, Military Service Members, Military Spouses, and Military Veterans****Texas Education Code, §21.041, Rules; Fees (excerpt):**

- (b) The board shall propose rules that:
 - (2) specify the classes of educator certificates to be issued, including emergency certificates;
 - (4) specify the requirements for the issuance and renewal of an educator certificate;

Texas Education Code, §21.044, Educator Preparation (excerpt):

- (a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The board shall specify the minimum academic qualifications required for a certificate.

Texas Education Code, §21.052, Certification of Educators from Outside the State, (excerpt):

- (b-1) The board shall propose rules to establish procedures to expedite the processing of an application for a certificate under this section submitted by an educator who is the spouse of a person who is serving on active duty as a member of the armed forces of the United States, including rules for providing the appropriate documentation to establish the educator's status as a spouse of a person who is serving on active duty as a member of the armed forces of the United States.
- (c) The board may issue a temporary certificate under this section to an educator who holds a degree required by Subsection (a)(1) and a certificate or other credential required by Subsection (a)(2) but who has not satisfied the requirements prescribed by Subsection (a)(3). Subject to Subsections (d) and (d-1), the board may specify the term of a temporary certificate issued under this subsection.
- (d-1) A temporary certificate issued under Subsection (c) to an educator who is the spouse of a person who is serving on active duty as a member of the armed forces of the United States may not expire before the third anniversary of the date on which the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform satisfactorily to receive a standard certificate.

Texas Occupations Code, §55.001, Definitions:

In this chapter:

- (1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.

- (2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.
- (3) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.
- (4) "Military service member" means a person who is on active duty.
- (5) "Military spouse" means a person who is married to a military service member.
- (6) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.
- (7) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Texas Occupations Code, §55.002, Exemption from Penalty for Failure to Renew License:

A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Texas Occupations Code, §55.003, Extension of License Renewal Deadlines for Military Service Members:

A military service member who holds a license is entitled to two years of additional time to complete:

- (1) any continuing education requirements; and
- (2) any other requirement related to the renewal of the military service member's license.

Texas Occupations Code, §55.004, Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses:

- (a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and:
 - (1) 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; or
 - (2) within the five years preceding the application date held the license in this state.
- (b) The executive director of a state agency may waive any prerequisite to obtaining a license for an applicant described by Subsection (a) after reviewing the applicant's credentials.
- (c) In addition to the rules adopted under Subsection (a), a state agency that issues a license may adopt rules that would establish alternate methods for a military service member, military veteran, or military spouse to demonstrate competency to meet the requirements for obtaining the license.

Texas Occupations Code, §55.0041, Recognition of Out-of-State License of Military Spouse, as added by Senate Bill (SB) 1200, 86th Texas Legislature 2019:

- (a) Notwithstanding any other law, a military spouse may engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.
- (b) Before engaging in the practice of the business or occupation, the military spouse must:
 - (1) notify the applicable state agency of the spouse's intent to practice in this state;
 - (2) submit to the agency proof of the spouse's residency in this state and a copy of the spouse's military identification card; and
 - (3) receive from the agency confirmation that:
 - (A) the agency has verified the spouse's license in the other jurisdiction; and
 - (B) the spouse is authorized to engage in the business or occupation in accordance with this section.
- (c) The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.
- (d) A military spouse may engage in the business or occupation under the authority of this section only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state but not to exceed three years from the date the spouse receives the confirmation described by Subsection (b)(3).
- (e) A state agency that issues a license shall adopt rules to implement this section. The rules must establish a process for the agency to:
 - (1) identify, with respect to each type of license issued by the agency, the jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state; and
 - (2) verify that a military spouse is licensed in good standing in a jurisdiction described by Subdivision (1).
- (f) In addition to the rules adopted under Subsection (e), a state agency that issues a license may adopt rules to provide for the issuance of a license to a military spouse to whom the agency provides confirmation under Subsection (b)(3). A license issued under this subsection must expire not later than the third anniversary of the date the agency provided the confirmation and may not be renewed. A state agency may not charge a fee for the issuance of the license.

SB 1200, 86th Texas Legislature, 2019, SECTION 2. Not later than December 1, 2019, a state agency to which Section 55.0041, Occupations Code, as added by this Act, applies, shall adopt rules to implement that section.

SB 1200, 86th Texas Legislature, 2019, SECTION 3. This Act takes effect September 1, 2019.

Texas Occupations Code, §55.005, Expedited License Procedure for Military Service Members, Military Veterans, and Military Spouses:

- (a) A state agency that issues a license shall, as soon as practicable after a military service member, military veteran, or military spouse files an application for a license:
 - (1) process the application; and
 - (2) issue the license to an applicant who qualifies for the license under Section 55.004.
- (b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

Texas Occupations Code, §55.006, Renewal of Expedited License Issued to Military Service Member, Military Veteran, or Military Spouse:

- (a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.
- (b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.
- (c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

Texas Occupations Code, §55.007, License Eligibility Requirements for Applicants with Military Experience:

- (a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.
- (b) The state agency shall adopt rules necessary to implement this section.
- (c) Rules adopted under this section may not apply to an applicant who:
 - (1) holds a restricted license issued by another jurisdiction; or
 - (2) has an unacceptable criminal history according to the law applicable to the state agency.

Texas Occupations Code, §55.008, Apprenticeship Requirements for Applicant with Military Experience:

- (a) Notwithstanding any other law, if an apprenticeship is required for a license issued by a state agency, the state agency shall credit verified military service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.
- (b) The state agency shall adopt rules necessary to implement this section.

Texas Occupations Code, §55.009, License Application and Examination Fees:

Notwithstanding any other law, a state agency that issues a license shall waive the license application and examination fees paid to the state for an applicant who is:

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

Texas Occupations Code, §55.009, Notice of Chapter Provisions:

A state agency that issues a license shall prominently post a notice on the home page of the agency's Internet website describing the provisions of this chapter that are available to military service members, military veterans, and military spouses.

ATTACHMENT II
Text of Proposed Revisions to 19 TAC

Chapter 234. Military Service Members, Military Spouses, and Military Veterans

§234.5. Certification of Military Service Members, Military Spouses, and Military Veterans.

- (a) The application for certification of a military service member, military veteran, or military spouse, including an application based upon certification by a jurisdiction other than Texas that has certification requirements substantially similar to the Texas certification requirements, shall be processed as soon as practicable.
- (b) As soon as practicable after the issuance of a one-year certificate, Texas Education Agency (TEA) staff shall notify, in writing or by email, a military spouse of the requirements for obtaining a standard Texas certificate.
- (c) A military spouse who has been issued a one-year certificate prior to September 1, 2017, under the provisions of this chapter, is eligible for two additional years from the date of issuance, not to exceed a total of three years maximum, to align with provisions for a military spouse referenced in subsection (d) of this section.
- (d) Effective September 1, 2017, a military spouse shall be issued a three-year temporary certificate upon completion of the review of credentials.
- (e) Effective December 1, 2019, prior to beginning employment, a military spouse must declare his or her intent to teach in Texas with a license issued by another state department of education, by submitting an application and required documents for a review of credentials to the TEA and completing the criminal background check. TEA staff must provide approval for the military spouse to teach in Texas a maximum of three years with credentials issued by another state. [The standard Texas certificate of a military service member, military spouse, or military veteran may be renewed if that certificate has expired within five years preceding the Texas application date.]
- (f) A military service member or a military veteran shall be entitled to credit verified military service, training, or education toward the training, education, work experience, or related requirements (other than certification examinations) for educator certification. TEA staff and educator preparation programs (EPPs) shall use information from the U.S. Department of Veterans Affairs or other reliable sources to assist in crediting applicable military service, training, or education to certification requirements.
- (g) A military service member pursuing certification in career and technical education must meet requirements for the certificate, but for career and technical education certificate areas requiring experience and licensure, the military service member shall be entitled to substitute military experience in the trade for the required license or professional credential for the specific trade.
- (h) A military service member, military spouse, and military veteran shall complete educator examination requirements for certificate issuance as outlined in Texas Education Code, Chapter 21, Subchapter B, and rules in the Texas Administrative Code, Title 19, Part 7, or qualify for an exemption from required Texas examinations through provisions in §152.1001 of this title (relating to Exceptions to Examination Requirements for Individuals Certified Outside the State).
- (i) Military service members and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.
- (j) Military service members and military veterans are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, one-year certificate, or out-of-state standard certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.
- (k) Military spouses are exempt from certification application fees that are paid to the state that lead to initial certification resulting from a review of credentials, three-year temporary certificate, or out-of-state standard

certificate. These members of the military community are exempt from paying the portion of the examination registration fee that is paid to the TEA.

§234.6. Review of Credentials and Issuance of Licensure to Military Service Members, Military Spouses, and Military Veterans.

- (a) To complete a review of credentials leading to issuance of licensure in Texas, military service members, military veterans, or military spouses must submit an application for review of credentials, copies of standard certificates issued in the other state(s), and official transcripts showing degree(s) conferred and date(s).
- (b) Upon completion of the review, the Texas Education Agency (TEA) will notify each military service member, military veteran, or military spouse, as specified in paragraphs (1)-(3) of this subsection, to provide results of the licensure review and information on next steps in the licensure process as follows.
 - (1) Military service members will receive written results of the credentials review and be issued the Texas standard certificate that aligns with certificate areas issued in other states.
 - (2) Military spouses will receive written results of the credentials review and have the following three options to teach in Texas with:
 - (A) the license issued by another state department of education, confirmed by TEA to be in good standing;
 - (B) the Texas temporary three-year certificate already available under provisions in §234.5(d) of this title (relating to Certification of Military Service Members, Military Spouses, and Military Veterans); and
 - (C) the Texas standard certificate eligible for issuance immediately following a successful review of credentials by TEA and completion of a criminal background check.
 - (3) Military veterans will receive written results of the credentials review and be issued the Texas standard certificate that aligns with certificate areas issued in other states.

§234.7. Renewal and Continuing Education Requirements for Military Service Members, Military Spouses, and Military Veterans.

- (a) Military service members, military spouses, and military veterans who hold a standard certificate(s) are responsible for certificate renewal and continuing professional education requirements pursuant to Chapter 232 of this title (relating to General Certification Provisions), except where specified in this chapter.
- (b) A military service member shall be exempted from any fee or penalty for failing to timely renew his or her Texas educator certificate if the delay occurred because the educator was serving as a military service member.
- (c) A military service member is entitled to two years of additional time to complete all continuing education requirements and any other requirements relating to the renewal of his or her Texas educator certificate.
- (d) The standard Texas certificate of a military service member, military spouse, or military veteran may be renewed if that certificate has expired within five years preceding the Texas application date.