

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Real Estate Commission

Department Department of Labor and Licensing

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Statutory Authority for Promulgating Rules A.C.A. § 17-42-303(c)(1)

Rule Title: 4.6 Pre-Licensure Criminal Background Check and Waiver Request

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

03/11/2022

04/11/2022

05/18/2022

07/01/2022

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Sandy Edgar sandy.edgar@arkansas.gov

June 3, 2022

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-683-8016

andrea.alford@arkansas.gov

Phone Number

E-mail Address

Executive Director

Title

June 3, 2022

Date

PROPOSED RULE AMENDMENT

Clean Copy

For the purposes of promulgating rules pursuant to Act 748 of the 2021 Regular Session of the General Assembly

4.6 Pre-Licensure Criminal Background Check and Waiver Request

(a)(1) Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

(2) The individual must obtain the pre-licensure criminal background check petition form from the Commission.

(3) The Commission will respond with a decision in writing to a completed petition within thirty (30) days of receipt.

(4) The Commission's response will state the reason(s) for the decision.

(5) All decisions of the Commission in response to the petition will be determined by the information provided by the individual.

(6) Any decision made by the Commission in response to a pre-licensure criminal background check petition is not subject to appeal.

(7) The Commission will retain a copy of the petition and response and it will be reviewed during the formal application process.

(b)(1) If an individual has been convicted of an offense listed in A.C.A. §17-3-102(a) or (e), the Commission may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

(i) An affected applicant for a license; or

(ii) An individual holding a license subject to revocation.

(2) The Commission may grant a waiver upon consideration of the following, without limitation:

(i) The age at which the offense was committed;

(ii) The circumstances surrounding the offense;

(iii) The length of time since the offense was committed;

(iv) Subsequent work history since the offense was committed;

(v) Employment references since the offense was committed;

(vi) Character references since the offense was committed;

(viii) Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

(c) A request for a waiver, if made by an applicant for original licensure as a broker or salesperson, must be in writing and accompany the completed application and fees.

(d) The Commission will respond with a decision in writing and will state the reasons for the decision.

(e) An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*