



# SARAH ECKHARDT

STATE SENATOR • DISTRICT 14

February 23, 2026

Texas Department of Licensing and Regulation  
920 Colorado St.  
Austin, Texas 78701

## **Re: Proposed Rule Changes and Request for Comments and Information – § 60.39. Verification of Applicant Eligibility**

Members of the Texas Commission on Licensing and Regulation:

On January 12th, 2026, the Texas Department of Licensing and Regulation (TDLR) proposed changes to 16 TAC, Chapter 60, to require proof of legal presence and work authorization for individuals seeking a professional license from TDLR.

I write to express my concern with the proposed rule and urge the Texas Commission of Licensing and Regulation, the department's governing body, to not adopt the proposed rule, §60.39. *Verification of Applicant Eligibility*. There are a number of issues the Commission should study further before adopting a non-mandatory policy that will have profound impacts on the 46 programs and licenses regulated by TDLR.

### **Strict Compliance with §1621 Is Not Required**

TDLR uses federal statute to justify its new documentation requirement for license applications and renewals. 8 U.S.C. §1621, which TDLR has identified as the imperative for issuing this rule, is permissive rather than mandatory. In fact, states are permitted by that very law to enact their own laws related to public benefits issued to undocumented immigrants.<sup>1</sup>

Furthermore, TDLR does not need the legislature to enact a law providing for an exception under 8 U.S.C. §1621.<sup>2</sup> In fact, courts have held “A narrow reading of 8 U.S.C. §1621(d), so as to require a state legislative enactment to be the sole mechanism by which the [s]tate... exercises its authority granted in 8 U.S.C. §1621(d) to opt out of the restrictions on the issuance of licenses imposed by 8 U.S.C. §1621(a), unconstitutionally infringes on the sovereign authority of the State to divide power among its three coequal branches of government.”<sup>3</sup>

An example of this is a state that delegates the authority to the judiciary to regulate the granting of professional licenses to practice law, where the judiciary exercises its authority to opt out of

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<sup>1</sup> 8 U.S.C. §1621(d)

<sup>2</sup> *Matter of Application of Cesar Adrian Vargas for Admission to the Bar of the State of New York.*, 131 A.D.3d 4.

<sup>3</sup> *Id.*



the restrictions imposed by 8 U.S.C. §1621(a).<sup>4</sup> In 2016, the New York State Board of Regents approved rules that expanded access to professional licenses for over 57 professions, including teaching, nursing, and accounting, to undocumented immigrants not qualified under federal statute.<sup>5</sup>

Not only does TDLR have no mandate to enforce 8 U.S.C. §1621, it has the flexibility to determine which Texans are eligible for professional licenses. As such, this rule should be evaluated not as a necessary action to comply with a federal mandate, but as a voluntary policymaking decision by TDLR.

### **Adverse Economic Effect**

In its proposed changes, TDLR determined that “the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities,” and that the “preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.” Given that the proposed rule changes the licensing requirements for all 778,059 Texans licensed by TDLR, deeper analysis is warranted.<sup>6</sup>

The careers of hundreds of thousands of Texans will be directly impacted by this change, and millions more will feel the economic effects. Small businesses, micro-businesses, and rural communities that rely on athletic trainers, barbers, cosmetologists, dietitians, speech-language pathologists, and many other licensed occupations will be impacted by this proposed rule. This absolutely supports the need for further study by TDLR.

Of particular concern is the impact on air conditioning/refrigeration and electrical contractors. Undocumented immigrants accounted for 6% of electricians and 5% of heating, air conditioning, refrigeration mechanics, and installers nationwide, according to a 2025 Center for Migration Studies estimate.<sup>7</sup> These skilled Texans would all likely lose their licenses if TDLR voluntarily opted for strict compliance with 8 U.S.C. § 1621. With Texas having the highest percentage of unauthorized immigrants per capita, 61% above the national average,<sup>8</sup> TDLR's proposed changes could reduce our state's skilled workforce in these areas by 8-10%, driving up costs for businesses and everyday Texans.

Texas cannot afford to lose qualified and skilled licensees in these high-demand jobs. The Texas Workforce Commission (TWC) notes that Electricians and Air Conditioning/Refrigeration Mechanics and Installers will have the highest demand growth of all non-supervisory occupations in the construction industry by 2032, with demand for Electricians growing by 20.3% and for Air Conditioning/Refrigeration Mechanics & Installers by 19.3%.<sup>9</sup>

The shortage of skilled electricians and air conditioning/refrigeration contractors will undoubtedly harm the entire Texas economy, but it will have harsher effects on small businesses and micro-businesses. The National Electrical Contractors Association (NECA) found that 51%

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<sup>4</sup> *Id.*

<sup>5</sup> N.Y. Comp. Codes R. & Regs. Tit. 8 § 59.4 - Citizenship

<sup>6</sup> TDLR, “Legislative Appropriation Request for Fiscal Years 2026 and 2027,” 38.

<sup>7</sup> CMS, “The Role of Undocumented Workers in High-Growth Occupations and Industries Across the United States.”

<sup>8</sup> Pew Research Center, “Unauthorized immigrants and characteristics for states, 2023.”

<sup>9</sup> TWC, “Report on Texas Growth Occupations - 2025,” 8.



of electrical contractor firms are classified as small (1-9 employees) and 42% generate \$1 million or less in revenue.<sup>10</sup> The U.S. Department of Energy's Better Buildings Program notes that the majority of HVAC contractors "are very similar in size, with the majority of firms employing 1 to 15 people."<sup>11</sup>

The proposed rule seeks to reduce a skilled Texas workforce in a high-demand field, mostly composed of small and micro businesses, by 8-10%. This is the exact circumstance that demands an Economic Impact Statement and Regulatory Flexibility Analysis.

The impact of TDLR's proposed rule is likely more far-reaching than what was initially assessed by the agency. TDLR has managed for 30 years since the passage of the federal law in 1996 without adopting a policy to verify immigration status. There is no urgent reason to adopt the rule now. It is in the best interest of all Texans that the commission not adopt this proposed rule, which will cost our economy skilled workers we cannot afford to lose. At a minimum, the commission should delay the adoption of the proposed rule until TDLR can provide the public with an Economic Impact Statement and Regulatory Flexibility Analysis.

Thank you for your time and consideration. Please feel free to contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'SEK', with a long, sweeping horizontal line extending to the right.

Senator Sarah Eckhardt  
District 14

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<sup>10</sup> NECA, "2024 Profile of the Electrical Contractor Reveals Industry Growth and Shifting Trends."

<sup>11</sup> U.S. Department of Energy, "Better Buildings Neighborhood Program Business Models Guide," 2-2.

