G.O.C. STAFF RULE ABSTRACT

AGENCY:	Agriculture
DIVISION:	Consumer and Industry Services
SUBJECT:	Food Manufactures and Warehouses
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 67-5-1701 – 67-5-1705, 67-1-305, and 67-5-605
EFFECTIVE DATES:	July 1, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rulemaking hearing rule defines and clarifies the use of the terms "community kitchen" and "commercial kitchen." The scope of the rulemaking hearing rule and content of applications for licenses are refined for clarity and simplicity.

Public Hearing Comments

David Waddell served as the hearing officer. There were no written or oral comments presented at the hearing on December 10, 2019.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Small businesses entering food manufacturing will have a clearer understanding of the terms that will affect them.

(2) Identification and estimate of the number of small businesses subject to the proposed rule:

As the rule is a clarification of definitions, the rule will have future effect on new business entering the field.

(3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed rule change is not expected to increase administrative costs of affected firms.

(4) Statement of the probable effect on impacted small businesses and consumers:

The rule clarifies the definitions of "community kitchen" and "commercial kitchen". There is no impact on those businesses currently licensed.

(5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

No less burdensome method for making the clarification is available.

(6) Comparison of the proposed rule with any federal or state counterparts:

The federal Food, Drug, and Cosmetic Act does not define these terms.

(7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is hoped that the clarification of the definitions will make it easier for small businesses to enter the market place.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The proposed rule has no effect on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule defines and clarifies the use of the terms "community kitchen" and "commercial kitchen." The scope of the rule and content of applications for licenses are refined for clarity and simplicity.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Food, Drug, and Cosmetic Act T.C.A. §§ 53-1-101 et seq.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Small food manufacturers entering the business will benefit from clarity of definition of terms and they urge adoption of the rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no opinions or rulings that affect this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

The rule has no fiscal impact

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

David Waddell

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

David Waddell

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

442 Hogan Road, Nashville, Tennessee 37220; (615) 837-5331; david.waddell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
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Sequence Number:	04-04-20
Rule ID(s):	9329
File Date:	4/2/2020
Effective Date:	7/1/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Agriculture
Division:	Consumer and Industry Services
Contact Person:	David Waddell
Address:	Post Office Box 40627, Nashville, Tennessee
Zip:	37204
Phone:	(615) 837-5331
Email:	david.waddell@tn.gov

Revision Type (check all that apply):
x Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0080-04-13	Food Manufacturers and Warehouses
Rule Number	**Rule Title**
0080-04-13-.01	Scope
0080-04-13-.02	Definitions
0080-04-13-.03	License Application and Fees

RULES
OF THE
TENNESSEE DEPARTMENT OF AGRICULTURE
FOOD

CHAPTER 0080-04-13
FOOD MANUFACTURERS AND WAREHOUSES

TABLE OF CONTENTS

0080-04-13-.01	~~Applicability~~ Scope	0080-04-13-.05	Standards for Manufacturing and Processing
0080-04-13-.02	Definitions	0080-04-13-.06	Standards for Labeling (Reserved)
0080-04-13-.03	License Application and Fees	0080-04-13-.07	Repealed
0080-04-13-.04	Certificates of Free Sale		

0080-04-13.-01 ~~APPLICABILITY~~. Scope.

(1) This chapter applies to any person who operates in the state any kitchen, factory, warehouse, establishment, or vehicle in which food is manufactured, processed, packed, held, or transported for introduction into commerce. ~~However, these rules do not apply to any person whose operation is regulated under the Tennessee Egg Law, T.C.A. § 53-2-101 et seq., the Dairy Law of the State of Tennessee, T.C.A. § 53-3-101, et seq., or the Tennessee Meat and Poultry Inspection Act, T.C.A. § 53-7-201 et seq.~~

~~(2) Persons licensed under this chapter shall be responsible for permitted facilities until: the applicable license expires, the department receives written notification from the licensee of a change in ownership for the licensed establishment, or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund license fees for early termination of any license under this chapter.~~

(2) Persons licensed under this chapter shall be responsible for operations conducted under their license until either the applicable license expires or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund fees for early termination of any license issued under this chapter.

(3) Licenses issued under this chapter are not transferable from person to person or location to location.

0080-04-13-.02 DEFINITIONS.

(1) Terms in this chapter share those meanings of terms set forth in the Tennessee Food, Drug and Cosmetic Act, T.C.A. § 53-1-101, et seq.

(2) When used in this chapter, unless the context requires otherwise:

(a) Act means the Tennessee Food, Drug and Cosmetic Act, compiled at T.C.A. § 53-1-101, et seq.;

(b) Commercial kitchen means a self-contained food manufacturer that is used only to manufacture, process, or pack food in commerce and is not located within a residence;

(c) Community or shared kitchen means a commercial kitchen used by multiple persons to manufacture, process, or pack food in commerce;

~~(b)~~(d) Dietary supplement, food supplement, or words of similar import mean a product taken by mouth that contains a dietary ingredient; is intended to supplement the diet; and is

not intended for use as a drug under the Act;

~~(c)~~(e) Dietary ingredient means one or more of the following components when used in a dietary supplement: vitamins, minerals, herbs or other botanicals, amino acids, enzymes, tissues from organs or glands, concentrates, metabolites, constituents; extracts;

~~(d)~~(f) Food means those articles as defined under the Act and includes dietary supplements; and

(g) Potentially hazardous food has the same meaning as T.C.A. § 53-1-104(1)(D).

0080-04-13-.03 LICENSE APPLICATION AND FEES.

(1) All persons to whom these rules apply shall obtain a license in accordance with the Tennessee Food, Drug and Cosmetic Act and this chapter.

(2) Application for issuance of any license under this chapter shall be made on forms provided by the department, which shall be completed in full and shall include:

(a) Name of the applicant;

(b) Proof of the applicant's registration in its state of incorporation~~, registration with the Tennessee Department of Revenue,~~ or business license issued by a local governmental authority;

(c) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, address of the principal place of business, and address of the facility to be licensed;

(d) Name and address of applicant's registered agent for service of process, if any.

(3) Licensees shall notify the department in writing of any changes to the information or contents of an application within 30 days after the change takes place.

(4) Applicants for licensure shall include with their application payment of an annual license fee as appropriate for the following categories of licenses. Fees designated under this rule shall be assessed in accordance with T.C.A. § 43-1-703(f) as it may be amended from time to time.

(a) Food Manufacturer License. A food manufacturer license is required per person and per facility for any kitchen, factory or establishment in the state where food is manufactured, processed, or packed for introduction into commerce. Food manufacturer license fees are determined in accordance with the size of the manufacturer's facility and the degree of risk the manufacturer poses for outbreak of food borne illness. An establishment greater than 10,000 square feet must obtain a Large Facility license. An establishment equal to or smaller than 10,000 square feet must obtain a Small Facility license. Determination of a manufacturer's risk for outbreak of food borne illness is made by the department based on the nature of the manufacturer's operations. Fees applicable for a food manufacturer license are as follows:

1. Food Manufacturer License, Large Facility – Risk Level 1: Tier 11 license fee;

2. Food Manufacturer License, Small Facility – Risk Level 1: Tier 10 license fee;

3. Food Manufacturer License, Large Facility – Risk Level 2: Tier 7 license fee;

4. Food Manufacturer License, Small Facility – Risk Level 2: Tier 5 license fee;

5. Food Manufacturer License, Large Facility – Risk Level 3: Tier 3 license fee;

6. Food Manufacturer License, Small Facility – Risk Level 3: Tier 2 license fee.

(b) Food Warehouse License. A food warehouse license is required for any warehouse or establishment in the state where food is held for introduction into commerce. A food warehouse license is not required for any establishment licensed as a food manufacturer under this chapter or as a food establishment under R. 0080-04-09. Food warehouse license fees are determined in accordance with the degree of risk the warehouse poses for outbreak of food borne illness. This determination is made by the department based on the nature of the warehouse's operations. Fees applicable for a food warehouse license are as follows:

1. Food Warehouse License, Risk Level 1: Tier 11 license fee;

2. Food Warehouse License, Risk Level 2: Tier 7 license fee;

3. Food Warehouse License, Risk Level 3: Tier 3 license fee.

(5) An applicant for licensure under this chapter shall remit its application and annual license fee to the department on or before July 1 of each year. All licenses issued under this chapter shall expire on June 30 following their issuance. If an applicant for renewal fails to remit payment of the license fee on or before July 16 of the licensure year for which renewal is sought, the applicant shall also be required to pay a late charge assessed under T.C.A. § 43-1-703 prior to renewal of the applicant's license.

(6) The department may deny any application for licensure that is not completed in accordance with this rule.

0080-04-13-.04 CERTIFICATES OF FREE SALE.

The fee for a Certificate of Free Sale is a Tier 2 fee under T.C.A. §43-1-703(f). No certificate of free sale shall be issued prior to receipt of the certificate fee.

0080-04-13-.05 STANDARDS FOR MANUFACTURING AND PROCESSING.

(1) Acidified Foods. The department adopts by reference, as if fully stated herein, the federal standards for acidified foods, compiled at 21 C.F.R. 108.25 and 21 C.F.R. 114, as either section or part may be amended from time to time.

(2) Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The department adopts by reference, as if fully stated herein, the federal standards for good manufacturing, hazard analysis, and risk-based preventive controls, compiled at 21 C.F.R. 117, subparts A and B, as either subpart may be amended from time to time.

(3) Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements. The department adopts by reference, as if fully stated herein, the federal standards for good practice in manufacturing, packaging, labeling, or holding dietary supplements, compiled at 21 C.F.R. 111, as the part may be amended from time to time.

(4) Fish and Fishery Products. The department adopts by reference, as if fully stated herein, the federal standards for fish and fishery products, compiled at 21 C.F.R. 123, subparts A and C,

as either subpart may be amended from time to time.

(5) Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers. The department adopts by reference, as if fully stated herein, the federal standards for hermetically sealed low-acid foods, compiled at 21 C.F.R. 108.35 and 21 C.F.R. 113, as either section or part may be amended from time to time.

0080-04-13-.06 STANDARDS FOR LABELING (RESERVED).

0080-04-13-.07 REPEALED.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 12/10/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/10/2019

Rulemaking Hearing(s) Conducted on: (add more dates). 12/10/2019

K. DAVID WADDELL
STATE OF TENNESSEE NOTARY PUBLIC
WILLIAMSON COUNTY

Date: 12/17/19

Signature:

Name of Officer: Charlie Hatcher, D.V.M.

Title of Officer: Commissioner

Subscribed and sworn to before me on: 12/17/19

Notary Public Signature: K D Waddell

My commission expires on: 10/11/2021

Agency/Board/Commission: Department of Agriculture

Rule Chapter Number(s): 0080-04-13

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

3/23/2020
Date

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PUBLICATIONS

Filed with the Department of State on: 4/2/2020

Effective on: 7/1/2020

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY:	Agriculture
DIVISION:	Consumer and Industry Services
SUBJECT:	Restricted Use Pesticides
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 43-8-101 et seq. and 4-3-203(10)(B)
EFFECTIVE DATES:	April 7, 2020 through October 4, 2020
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	All pest controls licenses and certifications expire on June 30. They are required to accumulate continuing education credits throughout the license period in order to renew their licenses. All the sources of training have closed because of COVID-19 epidemic and it may not be possible to get enough credits before June 30. These emergency rules move the expiration dates to September 30 for this year. In addition commercial applicators certified in Category 7 are deemed certified in Category 14 for the purpose of authoring more companies to be able to control microbial pests such as COVID-19.-19.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

There is no impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

All pest controls licenses and certifications expire on June 30. They are required to accumulate continuing education credits throughout the license period in order renew their licenses. All the sources of training have closed because of the Covid-19 epidemic and it may not be possible to get enough credits before June 30. These rules move the expiration dates to September 30 for this year.
In addition, commercial applicators certified in Category 7 are deemed certified in Category 14 for the purpose of authorizing more companies to be able to control microbial pests such as Covid-19.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Tennessee Insecticide, Fungicide, and Rodenticide Act T.C.A. §§ 43-8-101 et seq. mandates the promulgation of license and certification expiration dates. T.C.A. § 4-3-203(10)(B) gives the commissioner authority to issue emergency rules in conditions of danger to public welfare.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All holders of pesticide licenses and certifications are affected by this rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no relevant cases or opinions to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

The fiscal impact will be minimal.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

David Waddell

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

David Waddell

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

442 Hogan Road, Nashville, TN 37220; 615-837-5331; David.waddell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number:	04-09-20
Rule ID(s):	9330
File Date:	4/7/2020
Last Effective Day:	10/4/2020

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission: Department of Agriculture
Division: Consumer and Industry Services
Contact Person: David Waddell
Address: 442 Hogan Road, Nashville, TN
Zip: 37220
Phone: 615-837-5331
Email: david.waddell@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Statement of Necessity:
These rules are necessary for continuity of pesticide services available to the public and control of COVID-19 during state of emergency declared by governor.

Commercial applicators of pesticides and private applicators are required to complete a certain amount of training before renewing their certifications on June 30. This training and certification are important for the public welfare by having trained and certified individuals applying chemicals in homes and businesses. The primary source for the training is UT, which closed upon the issuance of the emergency declaration. Other training from the department or private trainers is also not available during this time. Without this training or an opportunity to take examinations they will not be able to renew their certifications by June 30. These rules extend the certification period to September 30, or 30 days from the end of the emergency declaration depending on which comes first. The rule also deems General Pest and Rodent Control licensees as licensed under Category 14 for pesticide applications made for control of COVID-19.

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0080-09-02	Restricted Use Pesticides
Rule Number	**Rule Title**
0080-09-02-.03	Certification Requirements
0080-09-02-.05	Certification Categories
0080-09-02-.06	Recertification Requirements

Amended Rules

0080-09-02-.03 Certification Requirements

Amend paragraph (2) of Rule 0080-09-02-.03, Certification Requirements, is amended by deleting it in its entirety and substituting instead the following:

(2) All certifications issued under this rule shall expire on ~~June~~ September 30 of the third year of the certification period in which the certification was issued.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

0080-09-02-.05 Certification Categories

Amend paragraph (14) of Rule 0080-09-02-.05, Certification Categories, is amended by adding the new subparagraph as follows:

(c) From the effective date of this rule until September 30, 2020, or the end of the state of emergency declared by the governor in response to the COVID-19 pandemic, whichever comes first, commercial applicators licensed under Rule 0080-09-04-.04(7) General Pest and Rodent Control (GRC) are considered licensed and certified in this category for the purpose of COVID-19 control.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

0080-09-02-.06 Recertification Requirements

Amend paragraph (1) of Rule 0080-09-02-.06, Recertification Requirements, is amended by deleting it in its entirety and substituting instead the following:

(1) Recertification of private applicator or commercial applicator shall expire of ~~June~~ September 30 of every third year.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: March 28, 2020

Signature:

Name of Officer: Charles Hatcher, D.V.M.

Title of Officer: Commissioner

Subscribed and sworn to before me on:

Notary Public Signature:

My commission expires on:

Agency/Board/Commission: Department of Agriculture: Consumer and Industry Services

Rule Chapter Number(s): 0080-09-02

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

4/2/2020
Date

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Filed with the Department of State on: 4/7/2020

Effective for: 180 *days

Effective through: 10/4/2020

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	State Board of Education
SUBJECT:	Requirements for the 2019-20 School Year as a Result of the COVID-19 Public Health Emergency
STATUTORY AUTHORITY:	Public Chapter 652 of 2020 gave the State Board of Education authority to promulgate emergency rules addressing issues as a result of COVID-19.
EFFECTIVE DATES:	April 16, 2020 to October 13, 2020
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	These emergency rules address special circumstances created by the statewide closure of schools in the spring semester of the 2019-20 school year due to COVID-19. Topics covered include attendance requirements, graduation and grading considerations, testing and accountability requirements, educator evaluation, educator licensure, and educator preparation.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly.)

No Impact.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These emergency rules address special circumstances created by the statewide closure of schools in the spring semester of the 2019-20 school year due to COVID-19. Topics covered include attendance requirements, graduation and grading considerations, testing and accountability requirements, educator evaluation, educator licensure, and educator preparation.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 652 of 2020 gave the State Board of Education authority to promulgate emergency rules addressing issues as a result of COVID-19.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules impact all public schools, local education agencies, licensed educators, students enrolled in and graduating an educator preparation program in Spring 2020, students enrolled in high school credit courses in Spring 2020, private schools that are required to meet the same number of instructional days and graduation requirements as public schools, and students enrolled in the Individualized Education Account program in Spring 2020.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

None.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders, General Counsel, State Board of Education

Nathan James, Director of Legislative and External Affairs, State Board of Education

Charlie Bufalino, Assistant Commissioner of Policy and Legislative Affairs, Department of Education

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders, General Counsel, State Board of Education

Nathan James, Director of Legislative and External Affairs, State Board of Education

Charlie Bufalino, Assistant Commissioner of Policy and Legislative Affairs, Department of Education

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Angie Sanders, General Counsel, State Board of Education
500 James Robertson Parkway, 5th Floor
Nashville, TN 37243
(615) 253-5707
Angela.C.Sanders@tn.gov

Nathan James, Director of Legislative and External Affairs, State Board of Education
500 James Robertson Parkway, 5th Floor
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(615) 532-3528
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Charlie Bufalino, Assistant Commissioner of Policy and Legislative Affairs, Department of Education
710 James Robertson Parkway, 9th Floor
Nashville, TN 37243
(615) 571-0449
Charlie.Bufalino@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Sequence Number:	04-21-20
Rule ID(s):	9336-9343
File Date:	4/16/2020
Last Effective Day:	10/13/2020

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	State Board of Education
Division:	N/A
Contact Person:	Angie Sanders
Address:	500 James Robertson Parkway, 5th Floor
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Revision Type (check all that apply):

X Amendment
X New
___ Repeal

Statement of Necessity:

The following emergency rules are authorized by Public Chapter 652 of 2020 to address issues arising from the state-wide closure of public and private schools and post-secondary institutions in the Spring of 2019-20 due to the COVID-19 public health emergency. These rules address graduation requirements, teacher evaluation, educator licensure including renewal and advancement, school and district accountability, testing requirements, and other relevant issues.

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	**Chapter Title**
0520-01-02	Administrative Rules and Regulations
Rule Number	**Rule Title**
0520-01-02-.17	State Attendance Guidelines

Chapter Number	**Chapter Title**
0520-01-03	Minimum Requirements for the Approval of Public Schools
Rule Number	**Rule Title**
0520-01-03-.11	Requirements for 2019-20 School Year as a Result of the COVID-19 Public Health Emergency

Chapter Number	**Chapter Title**
0520-01-09	Special Education Programs and Services
Rule Number	**Rule Title**
0520-01-09-.24	Extension of Initial Evaluation Timelines for the 2019-20 School Year

Chapter Number	**Chapter Title**
0520-01-11	Individualized Education Accounts
Rule Number	**Rule Title**

0520-01-11-.07	Monitoring and Compliance

Chapter Number	Chapter Title
0520-02-01	Evaluations
Rule Number	**Rule Title**
0520-02-01-.01	General Requirements for Evaluation

Chapter Number	Chapter Title
0520-02-03	Educator Licensure
Rule Number	**Rule Title**
0520-02-03-.03	Requirements for Teacher Licenses
0520-02-03-.09	Denial, Formal Reprimand, Suspension and Revocation
0520-02-03-.10	Requirements for Instructional Leader Licenses
0520-02-03-.15	Requirements as a Result of the COVID-19 Public Health Emergency

Chapter Number	Chapter Title
0520-02-04	Educator Preparation
Rule Number	**Rule Title**
0520-02-04-.11	Requirements for 2019-20 School Year as a Result of the COVID-19 Public Health Emergency

Chapter Number	Chapter Title
0520-07-02	Non-Public Schools Administrative Rules
Rule Number	**Rule Title**
0520-07-02-.09	Requirements for 2019-20 School Year as a Result of the COVID-19 Public Health Emergency

RULES
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CHAPTER 0520-01-02
ADMINISTRATIVE RULES AND REGULATIONS

AMEND Rule 0520-01-02-.17, State Attendance Guidelines, by adding the following as a new paragraph (5):

(5) Notwithstanding any other provision of this rule, as a result of the COVID-19 public health emergency in the spring semester of the 2019-20 school year, LEAs and public charter schools that choose to provide instruction during the period of school closure either virtually or via any form of remote learning may take attendance for purposes of determining the extent to which students have access to the instruction and the effectiveness of the remote programming; however, students shall not be given an unexcused absence or reported as truant as a result of any absences during the period of school closure.

Authority: T.C.A. § 49-6-3002(a); Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter 652 of 2020. ***Administrative History:*** (For history prior to June 1992, see pages iii through ix). Repeal filed March 16, 1992; effective June 29, 1992. New rule filed December 23, 2014; effective March 23, 2015.

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RULES
OF
THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-03
MINIMUM REQUIREMENTS FOR THE APPROVAL OF PUBLIC SCHOOLS

AMEND Chapter 0520-01-03, Minimum Requirements for the Approval of Public Schools, by adding a new rule .11 and FURTHER AMEND the table of contents for Chapter 0520-01-03 to add a new section .11, so that, as amended the new table of contents and rule shall read:

TABLE OF CONTENTS

0520-01-03-.01	Approval of Schools	0520-01-03-.08	Pupil Personnel Services
0520-01-03-.02	Organization of Schools	0520-01-03-.09	Special Education Programs and Services
0520-01-03-.03	Administration of Schools	0520-01-03-.10	Waivers
0520-01-03-.04	Repealed	0520-01-03-.11	Requirements for 2019-20 School Year as a Result of the COVID-19 Public Health Emergency
0520-01-03-.05	State Academic Standards	0520-01-03-.12	
0520-01-03-.06	Graduation	through	
0520-01-03-.07	Library Information Center	0520-01-03-.13	Repealed

0520-01-03-.11 REQUIREMENTS FOR 2019-20 SCHOOL YEAR AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY

(1) A Local Education Agency ("LEA") may request that the Commissioner waive a State Board rule or state statute for one (1) or more of the LEA's schools that inhibits or hinders the LEA's ability to meet the LEA's goals or comply with the LEA's mission due solely to the outbreak of COVID-19 during the spring semester of the 2019-2020 school year. No waiver shall be effective until approved by the State Board. Waiver requests shall be submitted to the Commissioner by June 30, 2020.

(2) For students in the 12th grade in the 2019-2020 school year, the following shall apply:~~.~~

(a) A student in the 12th grade in the 2019-20 school year shall receive as their spring semester grade no grade lower than the grade they earned in the course as of March 20, 2020; however, LEAs and public charter schools may provide remote learning opportunities to students as an opportunity to improve the student's grade.

(b) LEAs and public charter schools who allow students to complete additional work to improve their spring semester grade should support students who lack home internet access by providing printed materials to complete necessary coursework to obtain a passing grade.

~~(a)~~(c) LEAs and public charter schools may provide remote credit recovery opportunities for students who failed their first attempt at a course in spring 2020 in order to obtain a passing score.

(d) LEAs that have adopted a locally approved grading system may continue to calculate grades and graduation distinctions under a locally approved grading system as determined by the local board of education.

(e) In order to graduate in the 2019-20 school year, students must earn a minimum of twenty (20) credit hours which shall include the following subjects:

1. Four (4) credits of mathematics as described in the State Board's High School Policy 2.103;

2. Four (4) credits of English language arts as described in the State Board's High School Policy 2.103;

3. Three (3) credits of science as described in the State Board's High School Policy 2.103; and

4. Two (2) credits of social studies as described in the State Board's High School Policy 2.103.

(f) A student in the 12th grade in the 2019-20 school year shall not have End-of-Course exams scheduled to occur in the spring semester of the 2019-20 school year count as a percentage of a student's final grade in a course with an associated End-of-Course exam.

(g) A student scheduled to graduate in the 2019-20 school year is not required to take and pass the civics test required by T.C.A. § 49-6-408 to meet the social studies course credit requirements to earn a regular high school diploma

(h) Students receiving the occupational diploma in the 2019-20 or 2020-21 school year may receive the occupational diploma if they can demonstrate work experience of at least one (1) year.

(i) Students in the 12th grade during the 2019-20 school year who were enrolled in a Tennessee public school during their 11th grade year and who did not take the ACT or SAT shall not be required to take the ACT or SAT for graduation purposes.

(3) Students in the 11th grade during the 2019-20 school year shall not be required to take the ACT or SAT to assess post-secondary readiness during the 2019-20 school year.

(4) Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, shall not be required in the spring of the 2019-20 school year. This does not prohibit an LEA or public charter school from voluntarily administering TCAP tests to students in the 2019-20 school year.

(4) Students taking courses for high school credit who were not scheduled to graduate in the 2019-20 school year shall receive no grade lower than the grade they earned in the course as of March 20, 2020; however, LEAs and public charter schools may provide remote learning opportunities to students as an opportunity to improve the student's grade.

(5) LEAs and public charter schools shall not be required to complete required professional development trainings or required safety drills or that a school was unable to conduct due to school closures in the spring semester of the 2019-20 school year.

(6) Student performance and student growth data from the TCAP tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-20 school year shall not be used to assign a letter grade to a school, unless the use results in a higher letter grade for the school. Additionally, student performance and student growth data from TCAP tests administered in the

2019-20 school year shall not be used to identify a school as a priority school or to assign a school to the achievement school district.

(7) The Department of Education will not recommend and the State Board will not approve school or LEA performance designations based on performance goals and measures in the 2019-20 school year.

Authority: Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), U.S. Department of Education 2020 Waiver of Tennessee Assessment Requirements, Public Chapter 652 of 2020. ***Administrative History***: (For history prior to June, 1992, see pages iii-ix). Repeal filed March 16, 1992; effective June 29, 1992.

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CHAPTER 0520-01-09
SPECIAL EDUCATION PROGRAMS AND SERVICES

AMEND Chapter 0520-01-09, Special Education Programs and Services, by adding a new rule .24 and FURTHER AMEND the table of contents for Chapter 0520-01-09 to add a new section .24, so that, as amended the new table of contents and rule shall read:

TABLE OF CONTENTS

0520-01-09-.01 General Regulations. Adoption by Reference
0520-01-09-.02 Definitions
0520-01-09-.03 Consent
0520-01-09-.04 Parent
0520-01-09-.05 Free Appropriate Public Education
0520-01-09-.06 Child Find
0520-01-09-.07 Placements
0520-01-09-.08 State Advisory Panel
0520-01-09-.09 LEA Eligibility
0520-01-09-.10 Repealed
0520-01-09-.11 Evaluation Procedures
0520-01-09-.12 Definition of Individualized Education Program (IEP)
0520-01-09-.13 When IEPs Must Be in Effect
0520-01-09-.14 Review and Revision of the IEP
0520-01-09-.15 Parent Participation
0520-01-09-.16 Prior Notice by LEA
0520-01-09-.17 Mediation
0520-01-09-.18 Impartial Due Process Hearing
0520-01-03-.19 Civil Action
0520-01-09-.20 Surrogate Parents
0520-01-09-.21 Transfer of Parental Rights at Age of Majority
0520-01-09-.22 Amendment of Records at Parent's Request
0520-01-09-.23 Isolation and Restraint for Students Receiving Special Education Services
0520-01-09-.24 Extension of Initial Evaluation Timelines for the 2019-20 School Year

0520-01-09-.24 EXTENSION OF INITIAL EVALUATION TIMELINES FOR THE 2019-20 SCHOOL YEAR

(1) Pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19, tornadoes, and severe weather that impacted middle Tennessee, Public Chapter 652 of 2020, and 34 C.F.R. § 300.301(c), the timeline for initial evaluations initiated or in process as of March 3, 2020 may be extended beyond sixty (60) calendar days by the number of calendar days equal to the duration of an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA's or public charter school's local, state, or federal government.

(a) LEAs and public charter schools may request an additional extension up to thirty (30) calendar days after an order is lifted to be approved by the department due to extenuating circumstances.

Authority: Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief),; Public Chapter 652 of 2020, 34 C.F.R. § 300.301(c), ***Administrative History***:

RULES
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CHAPTER 0520-01-11
INDIVIDUALIZED EDUCATION ACCOUNTS

AMEND Rule 0520-01-11-.07, Monitoring and Compliance, by adding the following as a new paragraph (4):

(4) Pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19 and Public Chapter 652 of 2020, participating students in grades three (3) through eight (8) shall not be required to take a nationally norm-referenced test identified by the Department or the Tennessee comprehensive assessment program ("TCAP") tests if such tests were scheduled to occur in the spring semester of the 2019-20 school year.

Authority: T.C.A. §§ 49-1-302, 49-10-1403, Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter 652 of 2020. ***Administrative History:*** Emergency rules filed October 28, 2016; effective through April 26, 2017. Emergency rules superseded by new rules filed September 2, 2016; effective December 1, 2016. Emergency rules filed September 22, 2017; effective through March 21, 2018. Amendments filed December 21, 2017; effective March 21, 2018. Amendments filed October 25, 2018; effective January 23, 2019.

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RULES
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CHAPTER 0520-02-01
EVALUATIONS

AMEND Rule 0520-02-01-.01, General Requirements for Evaluations, by adding the following as a new paragraph (5):

0520-02-01-.01 GENERAL REQUIREMENTS FOR EVALUATIONS.

(5) Pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19 and Public Chapter 652 of 2020, and notwithstanding paragraph three (3), level of overall effectiveness scores shall not be generated for educators in the 2019-20 school year. Any observations required by State Board Policy 5.201 that were not completed in the 2019-20 school year prior to the COVID-19 Public Health Emergency shall not be required.

(a) No adverse action may be taken against any student, teacher, administrator, school, or LEA based, in whole or in part, on student achievement, student performance, or student growth data generated from The Tennessee comprehensive assessment program (TCAP) tests, which include, but are not limited to, TNReady assessments, English learner assessments, alternate TCAP assessments, and end-of-course examinations, administered in the 2019-2020 school year.

~~(a)~~(b) Pre-Kindergarten and Kindergarten teachers employed in an LEA that receives pre-kindergarten program approval under §§ 49-6-103 - 49-6-110 shall not be evaluated using the pre-K/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, for the 2019-20 school year.

(c) Any other educator evaluated under a student growth portfolio model shall not be evaluated using that portfolio model during the 2019-20 school year.

Authority: T.C.A. §§ 49-1-201, 49-1-302~~1~~, ~~and 49-5-5205,~~ Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief); and Public Chapter 652 of 2020. ***Administrative History:*** Original rule certified June 10, 1974. Repeal and new rule filed July 17, 1981; effective October 28, 1981. Amendment filed March 7, 1983; effective June 15, 1983. Amendment filed September 30, 1986; effective November 14, 1986. Amendment filed October 18, 1989; effective January 29, 1989. Amendment filed November 18, 1988; effective February 28, 1989. Amendment filed October 31, 1989; effective January 29, 1990. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed April 27, 1998; effective August 28, 1998. Amendment filed May 28, 1999; effective September 28, 1999. Repeal and new rule filed February 18, 2011; effective July 29, 2011. Amendment filed December 16, 2011; effective May 30, 2012.

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CHAPTER 0520-02-03
EDUCATOR LICENSURE

AMEND Chapter 0520-02-03, Educator Licensure, by adding a new rule .15 and FURTHER AMEND the table of contents for Chapter 0520-01-03 to add a new section .15, so that, as amended the new table of contents and rule shall read:

TABLE OF CONTENTS

0520-02-03-.01	General Information and Regulations
0520-02-03-.02	Educator License Types
0520-02-03-.03	Requirements for Teacher Licenses
0520-02-03-.04	Requirements for Occupational Teacher Licenses
0520-02-03-.05	Requirements for School Services Personnel Licenses
0520-02-03-.06	Requirements for the JROTC License
0520-02-03-.07	Requirements for Licenses of Postsecondary Educators
0520-02-03-.08	Requirements for the Adjunct License
0520-02-03-.09	Denial, Formal Reprimand, Suspension and Revocation
0520-02-03-.10	Requirements for Instructional Leader Licenses
0520-02-03-.11	Endorsements
0520-02-03-.12	Permits
0520-02-03-.13	Emergency Teacher License
0520-02-03-.14	Professional Development Points
0520-02-03-.15	Requirements as a result of the COVID-19 Public Health Emergency
0520-02-03-.165 through 0520-02-03-.94	Repealed

0520-02-03-.03 REQUIREMENTS FOR TEACHER LICENSES.

(1) Prospective educators seeking a practitioner teacher license shall meet the requirements of one (1) of the following pathways:

(a) Pathway 1. The prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Has completed a State Board-approved educator preparation program;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(b) Pathway 2. The prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Is enrolled in a State Board-approved educator preparation program with a job-embedded clinical practice;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(2) Prospective educators from a state other than Tennessee seeking a practitioner teacher license shall meet the requirements of one (1) of the following pathways:

(a) Out-of-State Pathway 1. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Has completed an educator preparation program approved by a state other than Tennessee;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(b) Out-of-State Pathway 2. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Holds a valid initial level license from a state other than Tennessee;

3. Has completed an educator preparation program approved by a state other than Tennessee; and

4. Is recommended by the approved educator preparation provider.

(c~~b~~) Out-of-State Pathway ~~2~~3. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university; and

2. Holds a valid professional level license from a state other than Tennessee.

(d~~c~~) Out-of-State Pathway ~~4~~3. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Is enrolled in an educator preparation program with job-embedded clinical practice that is approved by a state other than Tennessee that has a state-recognized partnership with a Tennessee local education agency (LEA);

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(3) At the time of application for a Tennessee license, out-of-state prospective educators who hold a valid certification from the National Board for Professional Teaching Standards shall be issued a professional level teacher license.

(4) Out-of-state prospective educators who are military spouses and who hold an active license (initial or professional) from a state other than Tennessee shall be issued the practitioner license upon providing documentation of active military dependent status.

(5) A practitioner license may be renewed once upon completion of an approved educator preparation program and submission of qualifying scores on all State Board-required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period of the first (1st) issuance of the practitioner license.

(6) If the requirements for practitioner license renewal are not met prior to the end of the validity period of the first (1st) issuance of the practitioner license, the license shall become inactive.

(7) An educator with a practitioner teacher license may seek to advance to a professional teacher license. In order to advance from a practitioner license to a professional license, an educator shall meet the following requirements:

(a) Completed an approved educator preparation program and submitted qualifying scores on all State Board-required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period of the first (1st) issuance of the practitioner license;

(b) Obtained three (3) years of qualifying experience as an educator as defined by the Department; and

(c) Earned thirty (30) professional development points.

(8) If the requirements for licensure advancement are not met prior to the end of the validity period of the second (2nd) issuance of the practitioner license, the license shall become inactive.

(9) Educators who obtained the practitioner teaching license through the out-of-state pathway 3~~2~~ shall not be required to submit qualifying scores on State Board-required assessments to advance if:

(a) The educator has been employed in a Tennessee public school in the candidate's area of endorsement; and

(b) The educator earned a level of overall effectiveness (LOE) score of "above expectations" or "significantly above expectations" in each of the first two (2) years immediately following the issuance of the individual's initial practitioner license.

(10) To renew the professional license, an educator shall earn sixty (60) qualifying professional development points as indicated in SBE Educator Licensure Policy 5.502.

(11) If the educator has not met the requirements for renewal at the end of the validity period of the professional license, then the license shall become inactive.

(12) In order to reactivate a license and endorsements held, an educator shall submit to the Department evidence of completion of an approved educator preparation program and shall submit qualifying scores on all State Board-required assessments that are not more than five (5) years old.

Authority: *T.C.A. § 49-1-302, T.C.A. § 49-5-108, Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief),; Public Chapter ~~XXX~~652 of 2020.*. ***Administrative History:*** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed*

August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Amendments filed October 16, 2017; effective January 14, 2018.

FURTHER AMEND paragraph (2) of Rule 0520-02-03-.09, DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION, by adding the following as subparagraph (a):

0520-02-03-.09, DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION

(a) Notwithstanding paragraph (2) and pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19 and Public Chapter ~~XXX~~652 of 2020, a Director may request an extension of the thirty (30) day reporting period if the Director is unable to submit a timely report due to school closures as a result of the COVID-19 public health emergency. Extension requests, including the date by which the Director will submit the report, shall be submitted to State Board counsel.

Authority: *T.C.A. §§ 4-5-320, 49-1-302, 49-1-607, 49-5-108, 49-5-413, ~~and~~ 49-5-417, Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter ~~XXX~~652 of 2020.* . ***Administrative History:*** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Amendment filed May 29, 2015; effective August 27, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Emergency rule filed September 5, 2017; effective through March 4, 2018. Amendments filed December 5, 2017; effective March 5, 2018.*

FURTHER AMEND paragraph (2) of Rule 0520-02-03-.10, REQUIREMENTS FOR INSTRUCTIONAL LEADER LICENSES, (4), so that as amended the rule shall read as follows:

0520-02-03-.10 REQUIREMENTS FOR INSTRUCTIONAL LEADER LICENSES

(1) All principals, assistant principals, and supervisors serving as instructional leaders in Tennessee shall hold the appropriate instructional leader license.

(2) Dual assignment personnel whose work assignment includes more than fifty percent (50%) instructional leadership responsibilities shall hold the appropriate instructional leader license.

(3) Educators seeking the Instructional Leader License (ILL) shall meet the following requirements:

(a) Hold an advanced degree from a regionally accredited college or university;

(b) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(c) Have completed a State Board-approved instructional leader preparation program;

(d) Be recommended by the State Board-approved instructional leader preparation provider; and

(e) Submit qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(4) Educators from a state other than Tennessee who are seeking the ILL shall meet the ~~following~~ requirements of one (1) of the following pathways:

(a) Out-of-State Pathway 1: The out-of-state prospective instructional leader shall:

1. Hold an advanced degree from a regionally-accredited college or university;

~~(b)~~2. Have at least three (3) years of qualifying experience as an educator as defined by the Department;

3. ~~(c)~~ Submit qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy; and

4. ~~(d)~~ Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

(i) ~~1.~~ A full and valid license, comparable to the Tennessee ILL, from a state other than Tennessee; or

(ii) ~~2.~~ A provider recommendation from the out-of-state instructional leader preparation program where the educator completed preparation.

(b) Out-of-State Pathway 2. The out-of-state prospective instructional leader shall:

1. Hold an advanced degree from a regionally-accredited college or university;

2. Have at least three (3) years of qualifying experience as an educator as defined by the Department, of which, one (1) year must be as a school principal;

3. Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

(i) A full and valid license comparable to the ILL from a state other than Tennessee; or

(ii) A provider recommendation from the approved instructional leader preparation program.

(5) Educators holding the ILL may renew the license through one (1) of the following pathways:

(a) Serve in a Tennessee Academy for School Leaders (TASL)-mandated position for at least two (2) years of the validity period of the license and be current in all TASL requirements; or

(b) Successfully complete a Department-approved instructional leadership training.

(6) Educators enrolled in a State Board-approved instructional leader preparation program may apply for the Instructional Leader License–Aspiring (ILL-A). Educators holding the ILL-A may only serve as an assistant principal and may not serve as a principal or instructional supervisor. Educators seeking the ILL-A shall meet the following requirements:

(a) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(b) Be enrolled in a State Board-approved instructional leader preparation program; and

(c) Be recommended by the State Board-approved instructional leader preparation provider.

(7) Candidates from a state other than Tennessee who are seeking the ILL-A shall meet the following requirements:

(a) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(b) Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

1. A full and valid license, comparable to the Tennessee ILL, from a state other than Tennessee; or

2. A provider recommendation from the out-of-state instructional leader preparation program where the educator completed preparation.

(8) The ILL-A shall become inactive at the end of the validity period. The ILL-A is not renewable and may not be reactivated.

(9) Educators currently holding the ILL may seek advancement to the Instructional Leader License - Professional (ILL-P) through one (1) of the following advancement pathways:

(a) Tennessee Academy for School Leaders (TASL) Pathway. Educators seeking advancement through the TASL pathway shall meet the following requirements:

1. Be recommended by the TASL director;

2. Successfully complete the Beginning Principals' Academy or the Beginning Supervisors' Academy; and

3. Be recommended by the educator's director of schools verifying the educator has a minimum of two (2) years of successful experience as a principal, assistant principal, or an instructional supervisor as demonstrated by an overall evaluation rating of at expectations or higher on a state-approved administrator evaluation model during the most recent validity period of the ILL.

(b) Individual Professional Learning Plan (IPLP) Pathway. Educators seeking advancement through the IPLP pathway shall meet the following requirements:

1. Be recommended by the TASL director;

2. Successfully complete an Individual Professional Learning Plan in coordination with an approved instructional leader preparation program; and

3. Be recommended by the educator's director of schools verifying the educator has a minimum of two (2) years of successful experience as a principal, assistant principal, or an instructional supervisor as demonstrated by an overall evaluation rating of at expectations or higher on a state-approved administrator evaluation model during the most recent validity period of the ILL.

(10) Educators may renew the ILL-P through one (1) of the following pathways:

(a) TASL Pathway. Educators who currently serve in a TASL mandated position shall meet the following renewal requirements:

1. Have served as an instructional leader in a TASL-mandated position for at least four (4) years of the validity period of the ILL-P; and

2. Meet all TASL requirements.

(b) Instructional Leadership Training Pathway. Educators who do not currently serve in a TASL mandated position seeking renewal shall successfully complete a Department approved instructional leadership training.

Authority: *T.C.A. § 49-1-302, T.C.A. § 49-5-108 Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter ~~XXX~~652 of 2020.*. ***Administrative History:*** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.*

0520-02-03-.15 REQUIREMENTS AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY.

(1) The validity period of a current, valid practitioner license that is set to expire in August 2020 shall be extended to August 31, 2021. Educators may use the additional validity period to complete any required licensure assessments, professional development points, or other requirements that were interrupted due to the COVID-19 public health emergency.

(2) Prospective educators who complete a State Board approved educator preparation program in the spring of 2020 and who meet all other requirements for the license type for which they are applying but are unable to submit qualifying scores on the required assessments as defined in the Professional Assessments for Tennessee Educators Policy shall be eligible for a provisional practitioner license that will be valid from the date of issuance until August 31, 2021.

(a) The provisional practitioner license shall be converted to a full practitioner license upon submission of qualifying scores on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period.

(b) If qualifying scores on all required assessments are not submitted prior to the end of the validity period of the provisional practitioner license, the license shall become inactive.

(c) The provisional practitioner license shall not be renewed or reactivated.

(d) The provisional practitioner license shall not be issued if the application was received by the department after December 31, 2020.

(3) Educators who complete a State Board approved instructional leader program in the spring of 2020 and who meet all other requirements for the Instructional Leader License (ILL) but are unable to submit qualifying scores on the required assessments as defined in the Professional Assessments for Tennessee Educators Policy shall be eligible for a provisional ILL that will be valid from the date of issuance until August 31, 2021.

(a) The provisional ILL shall be converted to a full ILL upon submission of qualifying scores on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period.

(b) If qualifying scores on all required assessments are not submitted prior to the end of the validity period of the provisional ILL, the license shall become inactive.

(c) The provisional ILL shall not be renewed or reactivated.

(d) The provisional ILL shall not be issued if the application was received by the department after December 31, 2020.

Authority: *T.C.A. § 49-1-302; Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), ~~;~~ Chapter ~~X~~ 652 of the Public Act of 2020.* **Administrative History:** Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.

0520-02-03-.165 THROUGH 0520-02-03-.20 REPEALED.

Authority: *T.C.A. § 49-1-302.* **Administrative History:** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.*

AMEND Chapter 0520-02-04, Educator Preparation, by adding a new rule .11 and FURTHER AMEND the table of contents for Chapter 0520-02-04 to add a new section .11, so that, as amended the new table of contents and rule shall read:

RULES OF

THE STATE BOARD OF EDUCATION

CHAPTER 0520-02-04

EDUCATOR PREPARATION

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0520-02-04-.01 Scope of Rules
0520-02-04-.02 Definitions
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0520-02-04-.11 Requirements for the 2019-20 School Year as a Result of the COVID-19 Public Health Emergency

0520-02-04-.11 REQUIREMENTS FOR 2019-20 SCHOOL YEAR AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY

(1) Notwithstanding Educator Preparation Rule 0520-02-04-.06(2) and 0520-02-04-.10, candidates whose clinical experiences were interrupted or truncated due to the COVID-19 public health emergency in Spring 2020 shall remain eligible for recommendation for licensure by their EPP despite completing less than the required duration for clinical placement as specified in Educator Licensure Policy 5.502.

(a) EPPs shall continue to determine whether a candidate meets the minimum criteria for being recommended for a license pursuant to State Board rule and policy and EPP policy and practice.

Authority: Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief),; Public Chapter ~~XXX~~ 652of 2020. ***Administrative History:***

RULES
OF
THE STATE BOARD OF EDUCATION

CHAPTER 0520-07-02
NON-PUBLIC SCHOOL APPROVAL PROCESS

AMEND Chapter 0520-07-02, Non-Public School Approval Process, by adding a new rule .09 and FURTHER AMEND the table of contents for Chapter 0520-07-02 to add a new section .09, so that, as amended the new table of contents and rule shall read:

TABLE OF CONTENTS

0520-07-02-.01	Categories	0520-07-02-.05	Category IV: Exempted Schools
0520-07-02-.02	Category I: Department of Education Approval	0520-07-02-.06	Category V: Acknowledged for Operation
0520-07-02-.03	Category II: Agency Accreditation	0520-07-02-.07	Repealed
0520-07-02-.04	Category III: Regional Accreditation	0520-07-02-.08	Repealed
		0520-07-02-.09	Requirements for 2019-20 School Year as a Result of the COVID-19 Public Health Emergency

0520-07-02-.09 REQUIREMENTS FOR 2019-20 SCHOOL YEAR AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY

(1) Pursuant to the Governor's Executive Orders of the year 2020 declaring the existence of a State of Emergency in response to COVID-19 and Public Chapter 652 of 2020:

(a) An approved Category I or II private school shall not be required to administer Tennessee comprehensive assessment program ("TCAP") tests or a nationally standardized achievement test if such tests were scheduled to occur in the spring semester of the 2019-20 school year.

(b) Approved Category I or II private schools required to comply with the same number of instructional days as Tennessee public schools shall not be required to comply with the 180 instructional day requirement in the 2019-20 school year if the private school was unable to meet the 180 day requirement due to school closures as a result of the COVID-19 public health emergency.

(c) For students scheduled to graduate from high school in the 2019-20 school year, approved private schools required to meet the same minimum requirements for high school graduation as Tennessee public schools shall be subject to the amended requirements outlined in State Board Emergency Rule 0520-01-03-.11.

Authority: Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter 652 of 2020. ***Administrative History***:

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Lillian Hartgrove	X				
Bob Eby	X				
Darrell Cobbins	X				
Larry Jensen	X				
Gordon Ferguson	X				
Elissa Kim	X				
Mike Edwards	X				
Nick Darnell	X				
Nate Morrow	X				

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 4/14/2020

Signature: Angie C. Sanders

Name of Officer: Angie Sanders

Title of Officer: General Counsel, State Board of Education

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-01-02, 0520-01-03, 0520-01-11, 0520-02-01, 0520-02-03, 0520-02-04, 0520-07-02

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

4/14/2020
Date

Department of State Use Only

Filed with the Department of State on: 4/16/2020

Effective for: 180 *days

Effective through: 10/13/2020

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

Tre Hargett
Secretary of State

RECEIVED

2020 APR 16 AM 9:28

SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	State Board of Education
SUBJECT:	Educator Licensure Requirements as a Result of the COVID-19 Public Health Emergency
STATUTORY AUTHORITY:	T.C.A. § 49-1-302, gives the State Board of Education authority to adopt policies governing the qualifications, requirements, and standards of, and provide the licenses and certificates for, all public school teachers, principals, assistant principals, supervisors, and directors of schools. Public Chapter 652 of 2020 required the State Board of Education to promulgate emergency rules to address issues as a result of the COVID-19 public health emergency.
EFFECTIVE DATES:	July 15, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	Pursuant to T.C.A. § 49-1-302, the State Board of Education has the authority to adopt policies governing the qualifications, requirements, and standards of, and provide the licenses and certificates for, all public school teachers, principals, assistant principals, supervisors, and directors of schools. These rulemaking hearing rules contain the following changes to provide additional pathways for Tennessee public schools to recruit and hire educators who are licensed in other states by allowing educators with an initial level license from another state to be issued a practitioner license in Tennessee without the requirement to submit qualifying scores on professional assessments if certain requirements are met. These rules also add a new pathway for out of state prospective instructional leaders to obtain an initial instructional leader license that does not require submission of qualifying scores on professional assessments if the educator holds a comparable level license from a state other than Tennessee.

Additionally, pursuant to Governor Lee's Executive Orders declaring a state of emergency in Tennessee as a result of tornado damage and the infectious disease COVID-19, and Public Chapter 652 of 2020, the State Board of Education approved emergency rules to address special circumstances created by the statewide closure of schools in the spring semester of the 2019-20 school year. These rules promulgate on a permanent basis provisions of the emergency rules that need to remain in effect due to long-term effects of COVID-19. This includes provisions allowing prospective educators or administrators who were unable to complete required licensure exams due to COVID-19 to receive a provisional license with the requirement that scores on licensure exams be submitted prior to the expiration of the provisional license on August 31, 2021. This rule also allows educators whose practitioner license is set to expire in August 2020 to have the license validity period extended one year to allow the educator to complete requirements for renewal or advancement that were interrupted as a result of COVID-19.

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

RESPONSE TO COMMENTS AT RULEMAKING HEARING

The Tennessee State Board of Education held a public rulemaking hearing on Rule 0520-02-03 on December 20, 2019, in the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243. No comments were offered at the hearing.

Aquinas College submitted written comments outlining concerns with the current State Board Educator Preparation Rule 0520-02-04-.10 and educator preparation policy requirement that educators seeking a teaching license must complete at least half of their clinical placement in a Tennessee public school. A request was made to create a new license type for non-public school teachers in this Educator Licensure Rule 0520-02-03, however, after additional consultation with Aquinas College, they withdrew this request/comment.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

This rule does not have a financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Pursuant to T.C.A. § 49-1-302, the State Board of Education has the authority to adopt policies governing the qualifications, requirements, and standards of, and provide the licenses and certificates for, all public school teachers, principals, assistant principals, supervisors, and directors of schools.

These rules contain the following changes to provide additional pathways for Tennessee public schools to recruit and hire educators who are licensed in other states by allowing educators with an initial level license from another state to be issued a practitioner license in Tennessee without the requirement to submit qualifying scores on professional assessments if certain requirements are met. These rules also add a new pathway for out of state prospective instructional leaders to obtain an initial instructional leader license that does not require submission of qualifying scores on professional assessments if the educator holds a comparable level license from a state other than Tennessee.

Additionally, pursuant to Governor Lee's Executive Orders declaring a state of emergency in Tennessee as a result of tornado damage and the infectious disease COVID-19, and Public Chapter 652 of 2020, The State Board of Education approved emergency rules to address special circumstances created by the statewide closure of schools in the spring semester of the 2019-20 school year. These rules promulgate on a permanent basis provisions of the emergency rules that need to remain in effect due to long-term effects of COVID-19. This includes provisions allowing prospective educators or administrators who were unable to complete required licensure exams due to COVID-19 to receive a provisional license with the requirement that scores on licensure exams be submitted prior to the expiration of the provisional license on August 31, 2021. This rule also allows educators whose practitioner license is set to expire in August 2020 to have the license validity period extended one year to allow the educator to complete requirements for renewal or advancement that were interrupted as a result of COVID-19.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 49-1-302, gives the State Board of Education authority to adopt policies governing the qualifications, requirements, and standards of, and provide the licenses and certificates for, all public school teachers, principals, assistant principals, supervisors, and directors of schools.

Public Chapter 652 of 2020 required the State Board of Education to promulgate emergency rules to address issues as a result of the COVID-19 public health emergency.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule affects licensed educators and administrators whose licenses were set to expire in August 2020, any licensed educator or administrator from another state who wishes to become licensed in Tennessee, and prospective educators and administrators who were unable to complete required licensure exams due to COVID-19 in Spring 2020. Local Education Agencies who wish to hire prospective educators and administrators either from other states or who were seeking licensure in the spring of 2020 are also affected by this rule. Local Education Agencies and the Department of Education both urged adoption of this rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

N/A

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders
Angela.C.Sanders@tn.gov

Nathan James
Nathan.James@tn.gov

Charlie Bufalino
Charlie.Bufalino@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders
Angela.C.Sanders@tn.gov

Nathan James
Nathan.James@tn.gov

Charlie Bufalino
Charlie.Bufalino@tn.gov

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Angie Sanders
500 James Robertson Parkway, 5th Floor
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(615) 253-5707
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Charlie Bufalino
710 James Robertson Parkway, 9th Floor
Nashville, TN 27243
(615) 571-0449
Charlie.Bufalino@tn.gov

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-22-20
Rule ID(s):	9344
File Date:	4/16/2020
Effective Date:	7/15/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Angie Sanders
Address:	5th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Angela.C.Sanders@tn.gov

Revision Type (check all that apply):

X Amendment
X New
__ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0520-02-03	Educator Licensure
Rule Number	**Rule Title**
0520-02-03-.03	Requirements for Teacher Licenses
0520-02-03-.10	Requirements for Instructional Leader Licenses
0520-02-03-.15	Requirements as a Result of the COVID-19 Public Health Emergency

RULES
OF
THE STATE BOARD OF EDUCATION

CHAPTER 0520-02-03
EDUCATOR LICENSURE

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0520-02-03-.15	Requirements as a result of the COVID-19 Public Health Emergency
0520-02-03-.165 through 0520-02-03-.94	Repealed

0520-02-03-.03 REQUIREMENTS FOR TEACHER LICENSES.

(1) Prospective educators seeking a practitioner teacher license shall meet the requirements of one (1) of the following pathways:

(a) Pathway 1. The prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Has completed a State Board-approved educator preparation program;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(b) Pathway 2. The prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Is enrolled in a State Board-approved educator preparation program with a job-embedded clinical practice;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(2) Prospective educators from a state other than Tennessee seeking a practitioner teacher license shall meet the requirements of one (1) of the following pathways:

(a) Out-of-State Pathway 1. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Has completed an educator preparation program approved by a state other than Tennessee;

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(b) Out-of-State Pathway 2. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Holds a valid initial level license from a state other than Tennessee;

3. Has completed an educator preparation program approved by a state other than Tennessee; and

4. Is recommended by the approved educator preparation provider.

(c~~b~~) Out-of-State Pathway 2~~3~~. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university; and

2. Holds a valid professional level license from a state other than Tennessee.

(d~~c~~) Out-of-State Pathway 4~~3~~. The out-of-state prospective educator:

1. Holds a bachelor's degree from a regionally-accredited college or university;

2. Is enrolled in an educator preparation program with job-embedded clinical practice that is approved by a state other than Tennessee that has a state-recognized partnership with a Tennessee local education agency (LEA);

3. Is recommended by the approved educator preparation provider; and

4. Submits qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(3) At the time of application for a Tennessee license, out-of-state prospective educators who hold a valid certification from the National Board for Professional Teaching Standards shall be issued a professional level teacher license.

(4) Out-of-state prospective educators who are military spouses and who hold an active license (initial or professional) from a state other than Tennessee shall be issued the practitioner license upon providing documentation of active military dependent status.

(5) A practitioner license may be renewed once upon completion of an approved educator preparation program and submission of qualifying scores on all State Board-required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period of the first (1st) issuance of the practitioner license.

(6) If the requirements for practitioner license renewal are not met prior to the end of the validity period of the first (1st) issuance of the practitioner license, the license shall become inactive.

(7) An educator with a practitioner teacher license may seek to advance to a professional teacher license. In order to advance from a practitioner license to a professional license, an educator shall meet the following requirements:

(a) Completed an approved educator preparation program and submitted qualifying scores on all State Board-required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period of the first (1st) issuance of the practitioner license;

(b) Obtained three (3) years of qualifying experience as an educator as defined by the Department; and

(c) Earned thirty (30) professional development points.

(8) If the requirements for licensure advancement are not met prior to the end of the validity period of the second (2nd) issuance of the practitioner license, the license shall become inactive.

(9) Educators who obtained the practitioner teaching license through the out-of-state pathway 3~~2~~ shall not be required to submit qualifying scores on State Board-required assessments to advance if:

(a) The educator has been employed in a Tennessee public school in the candidate's area of endorsement; and

(b) The educator earned a level of overall effectiveness (LOE) score of "above expectations" or "significantly above expectations" in each of the first two (2) years immediately following the issuance of the individual's initial practitioner license.

(10) To renew the professional license, an educator shall earn sixty (60) qualifying professional development points as indicated in SBE Educator Licensure Policy 5.502.

(11) If the educator has not met the requirements for renewal at the end of the validity period of the professional license, then the license shall become inactive.

(12) In order to reactivate a license and endorsements held, an educator shall submit to the Department evidence of completion of an approved educator preparation program and shall submit qualifying scores on all State Board-required assessments that are not more than five (5) years old.

Authority: *T.C.A. § 49-1-302, T.C.A. § 49-5-108, Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter ~~XXX~~652 of 2020.* ***Administrative History:*** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed*

August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Amendments filed October 16, 2017; effective January 14, 2018.

0520-02-03-.10 REQUIREMENTS FOR INSTRUCTIONAL LEADER LICENSES

(1) All principals, assistant principals, and supervisors serving as instructional leaders in Tennessee shall hold the appropriate instructional leader license.

(2) Dual assignment personnel whose work assignment includes more than fifty percent (50%) instructional leadership responsibilities shall hold the appropriate instructional leader license.

(3) Educators seeking the Instructional Leader License (ILL) shall meet the following requirements:

(a) Hold an advanced degree from a regionally accredited college or university;

(b) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(c) Have completed a State Board-approved instructional leader preparation program;

(d) Be recommended by the State Board-approved instructional leader preparation provider; and

(e) Submit qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy.

(4) Educators from a state other than Tennessee who are seeking the ILL shall meet the ~~following~~ requirements of one (1) of the following pathways:

(a) Out-of-State Pathway 1: The out-of-state prospective instructional leader shall:

1. Hold an advanced degree from a regionally-accredited college or university;

~~(b)~~2. ~~Have at least three (3) years of qualifying experience as an educator as defined by the Department;~~

3. ~~(c)~~ Submit qualifying scores that are no more than five (5) years old on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy; and

4. ~~(d)~~ Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

(i) ~~1.~~ A full and valid license, comparable to the Tennessee ILL, from a state other than Tennessee; or

(ii) ~~2.~~ A provider recommendation from the out-of-state instructional leader preparation program where the educator completed preparation.

(b) Out-of-State Pathway 2. The out-of-state prospective instructional leader shall:

1. Hold an advanced degree from a regionally-accredited college or university;

2. Have at least three (3) years of qualifying experience as an educator as defined by the Department, of which, one (1) year must be as a school principal;

3. Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

(i) A full and valid license comparable to the ILL from a state other than Tennessee; or

(ii) A provider recommendation from the approved instructional leader preparation program.

(5) Educators holding the ILL may renew the license through one (1) of the following pathways:

(a) Serve in a Tennessee Academy for School Leaders (TASL)-mandated position for at least two (2) years of the validity period of the license and be current in all TASL requirements; or

(b) Successfully complete a Department-approved instructional leadership training.

(6) Educators enrolled in a State Board-approved instructional leader preparation program may apply for the Instructional Leader License–Aspiring (ILL-A). Educators holding the ILL-A may only serve as an assistant principal and may not serve as a principal or instructional supervisor. Educators seeking the ILL-A shall meet the following requirements:

(a) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(b) Be enrolled in a State Board-approved instructional leader preparation program; and

(c) Be recommended by the State Board-approved instructional leader preparation provider.

(7) Candidates from a state other than Tennessee who are seeking the ILL-A shall meet the following requirements:

(a) Have at least three (3) years of qualifying experience as an educator as defined by the Department;

(b) Have completed an instructional leader preparation program approved by a state other than Tennessee as demonstrated by:

1. A full and valid license, comparable to the Tennessee ILL, from a state other than Tennessee; or

2. A provider recommendation from the out-of-state instructional leader preparation program where the educator completed preparation.

(8) The ILL-A shall become inactive at the end of the validity period. The ILL-A is not renewable and may not be reactivated.

(9) Educators currently holding the ILL may seek advancement to the Instructional Leader License - Professional (ILL-P) through one (1) of the following advancement pathways:

(a) Tennessee Academy for School Leaders (TASL) Pathway. Educators seeking advancement through the TASL pathway shall meet the following requirements:

1. Be recommended by the TASL director;

2. Successfully complete the Beginning Principals' Academy or the Beginning Supervisors' Academy; and

3. Be recommended by the educator's director of schools verifying the educator has a minimum of two (2) years of successful experience as a principal, assistant principal, or an instructional supervisor as demonstrated by an overall evaluation rating of at expectations or higher on a state-approved administrator evaluation model during the most recent validity period of the ILL.

(b) Individual Professional Learning Plan (IPLP) Pathway. Educators seeking advancement through the IPLP pathway shall meet the following requirements:

1. Be recommended by the TASL director;

2. Successfully complete an Individual Professional Learning Plan in coordination with an approved instructional leader preparation program; and

3. Be recommended by the educator's director of schools verifying the educator has a minimum of two (2) years of successful experience as a principal, assistant principal, or an instructional supervisor as demonstrated by an overall evaluation rating of at expectations or higher on a state-approved administrator evaluation model during the most recent validity period of the ILL.

(10) Educators may renew the ILL-P through one (1) of the following pathways:

(a) TASL Pathway. Educators who currently serve in a TASL mandated position shall meet the following renewal requirements:

1. Have served as an instructional leader in a TASL-mandated position for at least four (4) years of the validity period of the ILL-P; and

2. Meet all TASL requirements.

(b) Instructional Leadership Training Pathway. Educators who do not currently serve in a TASL mandated position seeking renewal shall successfully complete a Department approved instructional leadership training.

Authority: *T.C.A. § 49-1-302, T.C.A. § 49-5-108 Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Public Chapter ~~XXX~~652 of 2020.*. ***Administrative History:*** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.*

0520-02-03-.15 REQUIREMENTS AS A RESULT OF THE COVID-19 PUBLIC HEALTH EMERGENCY.

(1) The validity period of a current, valid practitioner license that is set to expire in August 2020 shall be extended to August 31, 2021. Educators may use the additional validity period to complete any required licensure assessments, professional development points, or other requirements that were interrupted due to the COVID-19 public health emergency.

(2) Prospective educators who complete a State Board approved educator preparation program in the spring of 2020 and who meet all other requirements for the license type for which they are applying but are unable to submit qualifying scores on the required assessments as defined in the Professional Assessments for Tennessee Educators Policy shall be eligible for a provisional practitioner license that will be valid from the date of issuance until August 31, 2021.

(a) The provisional practitioner license shall be converted to a full practitioner license upon submission of qualifying scores on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period.

(b) If qualifying scores on all required assessments are not submitted prior to the end of the validity period of the provisional practitioner license, the license shall become inactive.

(c) The provisional practitioner license shall not be renewed or reactivated.

(d) The provisional practitioner license shall not be issued if the application was received by the department after December 31, 2020.

(3) Educators who complete a State Board approved instructional leader program in the spring of 2020 and who meet all other requirements for the Instructional Leader License (ILL) but are unable to submit qualifying scores on the required assessments as defined in the Professional Assessments for Tennessee Educators Policy shall be eligible for a provisional ILL that will be valid from the date of issuance until August 31, 2021.

(a) The provisional ILL shall be converted to a full ILL upon submission of qualifying scores on all required assessments as defined in the Professional Assessments for Tennessee Educators Policy prior to the end of the validity period.

(b) If qualifying scores on all required assessments are not submitted prior to the end of the validity period of the provisional ILL, the license shall become inactive.

(c) The provisional ILL shall not be renewed or reactivated.

(d) The provisional ILL shall not be issued if the application was received by the department after December 31, 2020.

Authority: *T.C.A. § 49-1-302; Executive Order No. 14 of 2020; 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), Chapter 652X of the Public Acts of 2020.* **Administrative History:** Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.

0520-02-03-.16~~5~~ THROUGH 0520-02-03-.20 REPEALED.

Authority: *T.C.A. § 49-1-302.* **Administrative History:** *Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.*

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (If required)
Nick Darnell	X				
Mike Edwards	X				
Bob Eby	X				
Gordon Ferguson	X				
Elissa Kim	X				
Lillian Hartgrove	X				
Nate Morrow	X				
Darrell Cobbins	X				
Larry Jensen	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the TN State Board of Education (board/commission/ other authority) on 04/09/2020, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *10/29/2019*

Rulemaking Hearing(s) Conducted on: (add more dates). *12/20/2019*

Date: 4/13/2020

Signature: Angie C. Sanders

Name of Officer: Angie Sanders

Title of Officer: General Counsel

Subscribed and sworn to before me on: Not Required Per Secretary of State Emergency Rules effective 3/18/2020

Notary Public Signature:

My commission expires on:

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-02-03

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

4/14/2020
Date

Department of State Use Only

Filed with the Department of State on: 4/16/2020

Effective on: 7/15/2020

Tre Hargett
Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Technological University
SUBJECT:	Parking, Traffic, and Safety Enforcement
STATUTORY AUTHORITY:	The Uniform Administrative Procedures Act's general requirement related to rule promulgation. (T.C.A. § 4-5101 et seq.
EFFECTIVE DATES:	July 23, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	Due to a change in administrative responsibilities, the Parking, Traffic and Safety Enforcement Rule is amended to change parking citation authority from "Tennessee Tech Police Department" to "Tennessee Tech". The revisions also clarify the appeals process and add a notice and comment period related to setting rates for fines. The remaining revisions are generally technical in nature and correct typographical or grammatical issues.

Public Hearing Comments

No public comments were received before or during the rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not anticipated to have an impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

This rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Due to a change in administrative responsibilities, the Parking, Traffic and Safety Enforcement Rule is amended to change parking citation authority from "Tennessee Tech Police Department" to "Tennessee Tech". The revisions also clarify the appeals process and add a notice and comment period related to setting rates for fines. The remaining revisions are generally technical in nature and correct typographical or grammatical issues.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Uniform Administrative Procedures Act's general requirement related to rule promulgation. (T.C.A. § 4-5-101 *et seq.*

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Tech Board of Trustees urges adoption of this rule. Students and Tennessee Tech employees are most directly affected by this rule. Tennessee Tech received no public comments related to this rule so it has no basis for determining whether those groups urge adoption or not.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None known.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

None.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Dr. Claire Stinson, Vice President for Planning and Finance

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Dr. Claire Stinson, Vice President for Planning and Finance

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dr. Claire Stinson, Vice President for Planning and Finance
1 William L. Jones Drive
Cookeville, TN 38505
931-372-3657
cstinson@tntech.edu

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 04-36-20
Rule ID(s): 9348
File Date: 4/24/2020
Effective Date: 7/23/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Technological University
Division:
Contact Person: Dr. Claire Stinson, Vice President for Planning and Finance
Address: 1 William L. Jones Drive, Cookeville, TN
Zip: 38505
Phone: 931-372-3657
Email: cstinson@tntech.edu

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0240-09-03	Parking, Traffic, and Safety Enforcement
Rule Number	**Rule Title**
0240-09-03-.02	General Provisions
0240-09-03-.03	Parking Areas and Zones Enforcement
0240-09-03-.04	Parking Violation Fines
0240-09-03-.05	Motor Vehicle Operation
0240-09-03-.06	Traffic and Parking Citation Disputes and Appeals

Rules
Of
Tennessee Technological University, Cookeville

Chapter 0240-09-03
Parking, Traffic, and Safety Enforcement

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0240-09-03.01 Definitions
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0240-09-03.06 Traffic and Parking Citation Disputes and Appeals
0240-09-03.07 Liability for Theft or Damage

0240-09-03-.01 Definitions

(1) Motor Vehicle - Any self-propelled vehicle designed for transport of a person or persons and is capable of exceeding twenty-five (25) miles per hour over level, paved surfaces, shall be deemed a motor vehicle.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.02 General Provisions

(1) Tennessee Tech will regulate the use and/or parking of all Motor Vehicles on the campus in accordance with this ~~policy~~ rule and any applicable ~~rule~~ policy, regulation, ordinance, or statute.

(2) All employees and students must register Motor Vehicle(s) and purchase a parking permit in order to park on Tennessee Tech property. All visitors must request a parking permit. Motor Vehicles that are parked on campus without a current parking permit may be issued a parking citation for the violation. ~~by the Tennessee Tech Police Department.~~

(3) Parking citations are the responsibility of

(a) the registered owner of the parking permit and the user of the parking permit; or

(b) the registered owner of the vehicle in cases where no permit has been issued.

(4) Moving violations will be charged to the operator of the Motor Vehicle at the time of the violation.

(5) No individual is allowed to give, transfer, furnish, or sell a Tennessee Tech parking permit to another individual.

(6) Motor Vehicles are to be parked within two (2) marked lines and not protruding into another marked space. Violations of this type may result in a citation being issued. ~~by the Tennessee Tech Police Department.~~

(7) ~~Disabled~~ Non-operative vehicles will not be permitted to remain on campus beyond seven (7)

days without ~~the~~ written approval ~~of the Chief of the Tennessee Tech Police Department.~~ from Tennessee Tech.

(8) Trailers and boats cannot be parked on campus without ~~the~~ prior written approval ~~of the Chief of the Tennessee Tech Police Department.~~ from Tennessee Tech.

(9) Motor Vehicles or other means of conveyance parked in such a way as to create a traffic hazard, including, but not limited to, blocking dumpsters, wheelchair ramps, sidewalks, crosswalks, and other parked vehicles may be cited ~~by the Tennessee Tech Police Department~~ for illegal parking and/or may be towed or impounded at the owner's expense.

(10) Motor Vehicles not displaying a parking permit during zoned parking enforcement may be restrained by ~~the~~ Tennessee Tech ~~Police Department~~ with a wheel lock in order to identify the owner/operator of the Motor Vehicle during the times of zoned parking.

(11) Repeated Citations

(a) Repeated and/or flagrant parking violations may result in the Motor Vehicle being towed at the owner's expense.

(b) Tennessee Tech may revoke an individual's parking privileges for repeated and flagrant parking violations.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.03 Parking Areas and Zones Enforcement

(1) Parking areas are marked by color-coded signs that match the color-coded permits indicating the zone in which a Motor Vehicle may be parked. Zone restrictions are effective and enforced ~~by the Tennessee Tech Police Department~~ from 7:30 ~~am~~ a.m. to 4:30 ~~pm~~ p.m. Monday through Friday during times when classes are in session.

(2) Zone restrictions are not enforced after 4:30 p.m. with the exception of Residence Hall, Tech Village, and reserved parking zones/spaces. Motor Vehicles parked on campus after 4:30 ~~pm~~ p.m. Monday through Friday when classes are in session must have a parking permit displayed.

(3) No permit is required when classes are not in session.

(4) Residence halls and Tech Village parking zones are reserved for Motor Vehicles displaying the residential parking permits and are enforced ~~by the Tennessee Tech Police Department~~ twenty-four (24) hours a day. Visitors to residents of Tech Village are permitted to park at the Tech Village community center.

(5) Reserved spaces, including, but not limited to, the President, Police, Facilities, Residential Life Faculty Head, and Hall Directors, are reserved and enforced ~~by the Tennessee Tech Police Department~~ twenty-four (24) hours a day.

(6) Tennessee Tech ~~Police Department~~ enforces parking in visitor spaces from 7:30 ~~am~~ a.m. to 4:30 ~~pm~~ p.m. Monday through Friday when classes are in session. These spaces are for visitors to Tennessee Tech and employees and students cannot park in those spaces during this period.

(7) Tennessee Tech ~~Police Department~~ enforces parking in thirty (30) minute zones from 7:30 ~~am~~ a.m. to 4:30 ~~pm~~ p.m. Monday through Friday when classes are in session and are available to anyone for the time allotted.

(8) Disabled Parking

(a) Tennessee Tech ~~Police Department~~ enforces parking in disabled parking spaces twenty-four (24) hours a day. These reserved spaces are for individuals that have been issued a state disabled placard or license plate.

(b) The individual to whom the license plate or placard has been issued must be using the Motor Vehicle in order for the Motor Vehicle to be parked in the disabled space. Tennessee Tech will charge the owner of the parking decal or registered owner of the Motor Vehicle the maximum fine allowed by law for improper use of a disabled placard or license plate.

(c) Individuals that have been issued a state placard or license plate for disabled parking may purchase a Tennessee Tech disabled parking permit. This permit allows the individual to park in any legal parking space on campus, should a disabled space not be available.

(d) Pursuant to T.C.A. § 55-21-108, fines for violating the disabled parking law cannot be suspended or waived.

(9) Temporary and visitor parking permits

(a) Campus visitor permits are required for visitors to park on campus Monday through Friday when classes are in session. ~~Visitor permits allow an individual to park in the visitor parking when available or the perimeter (purple) color-coded lots on the campus. These permits can be obtained at the Tennessee Tech Police Department twenty-four (24) hours a day.~~ Tennessee Tech will designate parking areas for use by visitors. Tennessee Tech will publish information on obtaining visitor permits and designated parking areas on its website.

~~(b) Official visitor parking permits are available for individuals that are on campus for official business with Tennessee Tech. These permits must be approved by designated Tennessee Tech administrators. An official visitor permit allows the Motor Vehicle to park in any legal space on campus that is not specifically reserved.~~

~~(c)~~ (b) ~~The~~ Tennessee Tech ~~Police Department~~ may issue a temporary parking permit to individuals who have a parking permit on file and who have lost, misplaced, etc. the original hang tag.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.04 Parking Violation Fines

(1) Fines may be set as determined by Tennessee Tech, but shall not exceed the amounts set by state/county/municipal ordinance for the same offense. Such fines are subject to the prior review and approval of the Tennessee Tech Board of Trustees. Proposed fines shall be submitted to the Tennessee Tech Board of Trustees together with information sufficient to justify the fine. Such information shall include consideration of state/county/municipal fines for the same offense, fines for the same offense at similarly situated institutions, association to enforcement costs at ~~the institution~~ Tennessee Tech, and/or the unique traffic/parking considerations at ~~each institution~~ Tennessee Tech. The public will receive notice and be allowed to comment on the proposed fines. Once adopted or amended, all fines shall be ~~affirmatively communicated to the faculty, staff, and students of the institution through Tennessee Tech's website.~~ published on Tennessee Tech's webpage.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.05 Motor Vehicle Operation

(1) Operators of Motor Vehicles on Tennessee Tech property must obey all traffic rules, regulations, postings, or directions, regardless of whether the rule, regulation, posting, or direction is included in this ~~policy~~ rule.

(2) The speed limits on all Tennessee Tech streets as well as city streets running through Tennessee Tech are enforced by the Tennessee Tech Police Department. Violations ~~of this~~ may result in the operator of the Motor Vehicle receiving a speeding citation by Tennessee Tech Police.

(3) The reckless operation of a Motor Vehicle on the Tennessee Tech campus including, but not limited to, squealing tires, sliding the Motor Vehicle, and operating the Motor Vehicle at a high rate of speed are serious safety hazards and strictly prohibited. Operators may be issued a citation by Tennessee Tech Police as well as face disciplinary action for a violation of this nature.

(4) Operators of Motor Vehicles are prohibited from overtaking/passing another Motor Vehicle in operation on streets within the Tennessee Tech campus. Violations ~~of this~~ may result in the operator of the Motor Vehicle receiving a citation from Tennessee Tech Police.

(5) Operators of Motor Vehicles must observe and obey all traffic control devices (~~e.g.,~~ including, but not limited to, STOP signs~~,~~ or traffic lights). Failure to do so may result in the operator of the Motor Vehicle receiving a citation from Tennessee Tech Police for the violation.

(6) Operators of Motor Vehicles must yield the right of way and come to a complete stop for pedestrians in the crosswalks. Operators of Motor Vehicles must also show due care for all pedestrian traffic while operating a Motor Vehicle on the Tennessee Tech campus. Failure to do so may result in the operator of the Motor Vehicle receiving a citation for the violation from Tennessee Tech Police.

(7) Operators of Motor Vehicles must pull to the edge of the roadway and come to a complete stop to yield the right of way to emergency vehicles displaying active lights and/or sirens. Failure to do so may result in the operator of the Motor Vehicle receiving a citation for the violation from Tennessee Tech Police.

(8) Individuals riding bicycles on the Tennessee Tech campus must observe and obey all traffic control devices on all Tennessee Tech and city streets within the Tennessee Tech campus. Failure to do so may result in the operator of the bicycle being issued a citation for the violation by Tennessee Tech Police.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.06 Traffic and Parking Citation Disputes and Appeals

(1) Officers of the Tennessee Tech Police Department may issue citations for violations under certain circumstances in either Cookeville City Court for violations of city ordinances or Putnam County General Sessions Court for violations of state laws. Individuals that receive a City Court or General Sessions Court citation must either appear in court on the court date listed on the citation or pay the citation fine if appearance in court is not required.

(2) Any Tennessee Tech student, faculty, staff, or visitor who has received a Tennessee Tech ~~traffic and/or~~ parking citation may appeal the citation within fifteen (15) business days of the date of issue to the ~~Student Traffic Appeals Committee.~~ designated citation appeals committee. Tennessee Tech student, faculty, staff, and visitors will be notified in writing of the Committee's

decision. Tennessee Tech will publish procedures for appealing citations on its website.

~~(3) Any Tennessee Tech employee who has received a Tennessee Tech citation for traffic and/or parking violation may appeal the citation within fifteen (15) business days of the date of issue to the Faculty and Staff Traffic Appeals Committee Appeals may be filed in the Parking Portal.~~

~~(4) Any non-Tennessee Tech employee or student who has received a Tennessee Tech parking citation may appeal the citation within fifteen (15) business days of the date of issue to the Faculty and Staff Traffic Appeals Committee. These appeals can be filed by contacting the Tennessee Tech Police Department.~~

~~(5)~~ (3) The ~~Student Traffic Appeals Committee~~ designated student citation appeals committee will meet regularly during the Fall and Spring semesters. Students will be notified in writing of the Committee's decision. The ~~Faculty and Staff Traffic Appeals Committee~~ designated faculty, staff, and visitor appeals committee will meet once in the Fall semester and once in the Spring semester, absent good cause. Tennessee Tech employees and visitors will be notified in writing of the ~~C~~committee's decision.

~~(6)~~ (4) The ~~Student Traffic Appeals Committee and the Faculty and Staff Traffic Appeals Committee~~ citation appeals committee decisions may be appealed to ~~the Vice President for Student Affairs~~ a designated administrator who is not affiliated with the respective citation appeals committee. ~~by submitting a written appeal~~ A written appeal must be submitted with all relevant documentation attached within five (5) business days of the notification of the appropriate committee's decision. Tennessee Tech will publish procedures for appealing a citation appeals committee decision on its website.

~~(7)~~ (5) The ~~Vice President for Student Affairs~~ designated administrator will communicate his/her decision in writing to the individual making the appeal within five (5) business days after receiving the written appeal along with all relevant documentation. The decision of the ~~Vice President for Student Affairs~~ designated administrator is final.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

0240-09-03-.07 Liability for Theft or Damage

(1) Tennessee Tech assumes no financial responsibility for theft or damage to Motor Vehicles or their contents when parked or operated on campus.

Authority: T.C.A. § 49-8-203(a)(1)(D); T.C.A. § 49-8-101(a)(2)(A).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Trudy Harper	X				
Tom Jones	X				
Fred Lowery	X				
Sally Pardue	X				
Rhedona Rose	X				
Purna Saggurti				X	
Johnny Stites	X				
Teresa Vanhooser	X				
Barry Wilmore	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Technological University Board of Trustees on 12/05/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/27/19

Rulemaking Hearing(s) Conducted on: (add more dates). 12/05/19

Date: 2/7/2020

Signature: Claire Stinson

Name of Officer: Claire Stinson

Title of Officer: Vice President for Planning + Finance

Subscribed and sworn to before me on: 2/7/2020

Notary Public Signature: Deborah Kay Combs

My commission expires on: 6/29/2020

Agency/Board/Commission: Tennessee Technological University

Rule Chapter Number(s): Chapter 0240-09-03

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery ~~III~~
Attorney General and Reporter

3/23/2020
Date

Department of State Use Only

Filed with the Department of State on: 4/24/2020

Effective on: 7/23/2020

Tre Hargett

Tre Hargett
Secretary of State

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2020 APR 24 PM 3:27

SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Technological University
SUBJECT:	Access to Public Records
STATUTORY AUTHORITY:	T.C.A. § 10-7-503(9)(2) requires state government entities to promulgate rules regarding public records that meet the requirements of T.C.A. 10-7-503(g)(1).
EFFECTIVE DATES:	July 27, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	This rulemaking hearing rule describes processes for inspecting public records and is similar to the Open Records Counsel's model policy related to public records.

Public Hearing Comments

Tennessee Tech held two rulemaking hearings related to this rule, the first on February 1, 2019, and the second on December 5, 2019. The Board considered the comments received on February 1, 2019, at its June 20, 2019, meeting and allowed presenters to address the Executive Committee at its May 7, 2019, meeting and at its June 20, 2019, meeting. The rule was withdrawn and Tennessee Tech filed a second Notice of Rulemaking Hearing and conducted the hearing before the Board on December 5, 2019. No additional comments were received at the second rulemaking hearing.

Comments received at the February 1, 2019, hearing and Tennessee Tech's responses:

Comment: The rule should state that a resident can affirm Tennessee Tech residency through additional specified ways, such as a checkbox, residential or business address, or student identification card.

Response: The rule provides that a requestor can meet the citizenship requirement either by a valid Tennessee driver's license or an alternative acceptable form of identification. Tennessee Tech believes the rule is flexible enough to allow requestors to provide proof of residency through any number of avenues and that specifying the mechanisms would unnecessarily limit a requestor's or Tennessee Tech's options. Tennessee Tech does not believe, however, that a "checkbox" is a sufficient mechanism to prove Tennessee citizenship.

Comment: The rule should state that if Tennessee Tech has contracted with another entity and that entity possesses records subject to the Public Records Act, Tennessee Tech will facilitate or acquire those records on behalf of the requestor.

Response: Tennessee Code Annotated Section 10-7-503 (a)(2)(B) requires a "custodian" of a public record to "promptly make available for inspection any public record not specifically exempt from disclosure." Tennessee Code Annotated Section 10-7-503(a)(1)(C) defines a "records custodian" as any "office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record." While Tennessee Tech will make contract documents in its custody available to a requestor, Tennessee Tech declines to assume the burden of acquiring records that are not in its direct custody or care.

Comment: While Tennessee Tech's rule does not prohibit photography of records, the commenter indicated that if Tennessee Tech does ban photography, that ban must be promulgated as part of the rule.

Response: Tennessee Tech added a provision to the rule related to photographing documents.

Comment: Tennessee Tech should accept a student identification card as proof of citizenship.

Response: Tennessee Tech declines to revise the rule for two reasons: First, a student identification card, by itself, is insufficient to prove citizenship or residency; second, Tennessee Tech does not wish to treat one class of requestors more favorably than another by accepting less proof of citizenship. Tennessee Tech's rule, however, is flexible enough to allow the use of a student id in combination with another document such as dorm address, utility bill, rental agreement, etc. to meet the citizenship requirement.

No comments were received at the December 5, 2019, rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule describes processes for inspecting public records and is similar to the Open Records Counsel's model policy related to public records.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 10-7-503(g)(2) requires state government entities to promulgate rules regarding public records that meet the requirements of T.C.A. § 10-7-503(g)(1).

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Tech Board of Trustees urges adoption. Individuals/entities that wish to review public records of the State of Tennessee are directly affected by this rule, including, but not limited to, student journalists and media groups. Prior to the notice of the December 5, 2019, rulemaking hearing, student journalists and a media coalition indicated they were opposed to requiring proof of Tennessee citizenship.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None known.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

None.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Karen Lykins, Chief Communication Officer

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Karen Lykins, Chief Communication Officer

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Karen Lykins, Chief Communication Officer
1 William L. Jones Dr.
Cookeville, TN 38505
931-372-3084
KLykins@tntech.edu

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-37-20
Rule ID(s):	9349
File Date:	4/28/2020
Effective Date:	7/27/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Technological University
Division:
Contact Person: Karen Lykins
Address: 1 William L. Jones Dr., Cookeville
Zip: 38505
Phone: 931-372-3084
Email: klykins@tntech.edu

Revision Type (check all that apply):
___ Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0240-09-05	Access to Public Records
Rule Number	**Rule Title**
0240-09-05-.01	Scope
0240-09-05-.02	Definitions
0240-09-05-.03	General Policy Statement
0240-09-05-.04	Requesting Access to Public Records
0240-09-05-.05	Responding to Public Records Request
0240-09-05-.06	Redaction
0240-09-05-.07	Inspection of Records
0240-09-05-.08	Request for Copies of Records

Rules
Of
Tennessee Technological University, Cookeville
Chapter 0240-09-05
Access to Public Records

New

Table of Contents is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.01 Scope
0240-09-05-.02 Definitions
0240-09-05-.03 General Policy Statement
0240-09-05-.04 Requesting Access to Public Records
0240-09-05-.05 Responding to Public Records Request
0240-09-05-.06 Redaction
0240-09-05-.07 Inspection of Records
0240-09-05-.08 Request for Copies of Records

0240-09-05-.01 Scope is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.01 Scope

(1) This rule does not apply to a student's request to see his/her own education records or to an employee's or former employee's reasonable requests to review or copy his/her own personnel file.

(2) Proof of Tennessee citizenship for the purpose of access to public records is not proof of residency for the purpose of classifying students as in-state or out-of-state when assessing tuition and fees and for admission purposes.

Authority: T.C.A. § 10-7-503(g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.02 Definitions is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.02 Definitions

(1) Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

(2) Public Records Request Coordinator ("Coordinator"): The designated individual who has the responsibility to ensure Public Record requests are routed to the appropriate records custodian and are fulfilled in accordance with the Tennessee Public Records Act.

(3) Records Custodian: The office, official, or employee lawfully responsible for the direct custody and care of a Public Record.

(4) Requestor: A person seeking access to a Public Record, whether it is for inspection or duplication.

Authority: T.C.A. § 10-7-503 (g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.03 General Policy Statement is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.03 General Policy Statement

(1) Tennessee Tech shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of Public Records as required by law.

Authority: T.C.A. § 10-7-503(g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.04 Requesting Access to Public Records is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.04 Requesting Access to Public Records

(1) Public Records requests should be directed to the Coordinator or his/her designee in order to ensure Public Records requests are routed to the appropriate Records Custodian and fulfilled in a timely manner.

(2) Requestor may contact the Coordinator in person, by telephone, by email, or by mail.

(3) Tennessee Tech will publish the name, telephone number, email address, and office location of the Coordinator on its website or similar publication.

(4) Tennessee Tech will not require a Requestor to submit a request for inspection in writing, absent good cause.

(5) Tennessee Tech will require proof of Tennessee citizenship by either a valid Tennessee driver's license or alternative acceptable form of identification as a condition to inspect or receive copies of Public Records.

(6) No request is necessary for bid tabulations for Request for Proposals and Request for Quotes, which are posted regularly on Tennessee Tech's Purchasing and Contracts webpage. Similarly, meeting notices and materials for Tennessee Tech's Board of Trustees are posted on Tennessee Tech's Board webpage.

Authority: T.C.A. § 10-7-503(g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.05 Responding to Public Records Requests is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.05 Responding to Public Records Requests

(1) The Coordinator shall, as necessary or appropriate:

(a) Request proof of Tennessee citizenship;

(b) Clarify the scope of the request;

(c) Advise the Requestor that Tennessee Tech may charge for copies if the request exceeds the costs threshold allowed by its rule;

(d) Advise the Requestor that Tennessee Tech is not the custodian of the record;

(e) Provide the records;

(f) Deny the request in writing, providing the appropriate basis, such as one of the following:

1. The Requestor is not a Tennessee citizen or has not presented evidence of Tennessee citizenship;

2. The request lacks specificity;

3. An exemption makes the record not subject to disclosure under the Tennessee Public Records Act;

4. The records do not exist.

(2) The Coordinator may deny the request provided the Coordinator has identified in writing the specific legal

basis for the denial of the request.

(3) The Coordinator may, if appropriate, contact the Requestor to see if the request can be narrowed.

(4) If requested records are in the custody of a different governmental entity and the Coordinator knows the correct governmental entity, the Coordinator may direct the Requestor to the correct governmental entity.

(5) A Records Custodian must promptly forward a request to the Coordinator and assist the Coordinator in making the records available to the Requestor in a timely manner.

(6) If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open, to redact records; or for other similar reasons, then the Coordinator shall, within seven (7) business days from the receipt of the request, send the Requestor a completed Public Records Response Form.

(7) If the Coordinator reasonably determines production of records should be segmented because the Public Records Request is for a large volume of records, or additional time is necessary to prepare the records for access, the Coordinator shall notify the Requestor in writing that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the Coordinator may contact the Requestor to see if the request can be narrowed.

(8) If the Coordinator discovers records responsive to a records request were omitted, the Coordinator will notify the Requestor and produce the records as quickly as practicable.

Authority: T.C.A. § 10-7-503 (g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.06 Redaction is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.06 Redaction

(1) If a record contains confidential information that is not open for public inspection, the Coordinator, with assistance from the Records Custodian, shall redact the record prior to providing access.

(2) Whenever the Custodian provides a redacted record, the Custodian will advise the Requestor of the general basis or bases for the redaction(s).

Authority: T.C.A. § 10-7-5039(g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.07 Inspection of Records is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.07 Inspection of Records

(1) Tennessee Tech will not charge for inspection of Public Records.

(2) Tennessee Tech will advise the Requestor of the location where the records may be inspected.

(3) The Coordinator may require an appointment for the inspection.

Authority: T.C.A. § 10-7-503(g)(2); T.C.A. § 49-8-203(a)(4).

0240-09-05-.08 Request for Copies of Records is added to Chapter 0240-09-05 Access to Public Records and shall read as follows:

0240-09-05-.08 Request for Copies of Records

(1) The Coordinator will respond to a Public Records request for copies in the most economic and efficient manner practicable.

(2) Copies will be available for pickup at a location specified by the Coordinator.

(3) Tennessee Tech will not use fees and charges for copies of Public Records to hinder access to Public Records.

(4) The Coordinator will provide Requestors with an estimate of the charges prior to producing copies of records and may require prepayment of such charges before producing requested records.

(5) If fees for copies and labor do not exceed twenty-five dollars ($25), Tennessee Tech may waive those fees. Requests for waivers for costs that exceed $25 must be presented to the Coordinator, who is authorized to determine if such waiver is in the best interest of Tennessee Tech or for the public good.

(6) A requestor may use a personal cellphone to take pictures of records when the total amount of pages to be photographed does not exceed twenty-five (25) pages.

(7) Tennessee Tech will not waive fees associated with aggregated records requests.

(8) A Requestor must pay by cash, credit card, or personal check made payable to Tennessee Tech and presented to the Coordinator or to the Tennessee Tech Business Office.

(9) Tennessee Tech will aggregate record requests in accordance with the current office of Open Records Schedule for Reasonable Charges for Frequent and Multiple Requests when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.

(10) If Tennessee Tech aggregates requests, the Coordinator will advise Requestors of the basis for the aggregation.

Authority: T.C.A. § 10-7-503(g)(2); T.C.A. § 49-8-203(a)(4).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Trudy Harper	X				
Tom Jones	X				
Sally Pardue	X				
Rhedona Rose	X				
Purna Saggurti				X	
Johnny Stites	X				
Teresa Vanhooser	X				
Barry Wilmore	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Technological University Board of Trustees on 12/05/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *09/27/19*

Rulemaking Hearing(s) Conducted on: (add more dates). *12/05/19*

Date: 2-10-20

Signature: Karen Lykins

Name of Officer: KAREN LYKINS

Title of Officer: CHIEF COMMUNICATION OFFICER

Subscribed and sworn to before me on: 2/10/2020

Notary Public Signature: Deborah Kay Combs

My commission expires on: 6/29/2020

Agency/Board/Commission: Tennessee Technological University

Rule Chapter Number(s): 0240-09-05

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

3/11/2020
Date

Department of State Use Only

Filed with the Department of State on: 4/28/2020

Effective on: 7/27/2020

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED

2020 APR 28 PM 12:50

SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY:	Finance and Administration
DIVISION:	Administration
SUBJECT:	Access to Public Records of the Department of Finance and Administration
STATUTORY AUTHORITY:	Tennessee Code Annotated, Section 10-7-503(g)(2)
EFFECTIVE DATES:	July 8, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The rulemaking hearing rule sets forth the Department's procedures for responding to requests for public records under the Public Records Act including procedures for making requests, making documents available, and charging fees when authorized by law. These rules are required by legislation to replace the Department's current policy statement.

(NOTE: This rule was not submitted in redline form.)

Public Hearing Comments

The Rulemaking Hearing for the rule was held on February 6, 2020 pursuant to notice filed with the Secretary of State. No written or verbal comments were received at the hearing so the Department filed no responses.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The Department of Finance and Administration considered the impact of the rule on small businesses. The rule do not change the requirements for requesting or producing public records or the costs of obtaining records, which were established by enactments of the General Assembly, the policies of the Office of Open Records Counsel as incorporated by §10-7-503, and the Department's previous rules and policies. Therefore the rule does not impact small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

This rule has no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule sets forth the Department's procedures for responding to requests for public records under the Public Records Act including procedures for making requests, making documents available, and charging fees when authorized by law. These rules are required by legislation to replace the Department's current policy statement.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The rule is required by Tennessee Code Annotated §10-7-503(g)(2).

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rule affects all citizens of the State who request public records. The Department received no public comments and do not anticipate opposition to the rule.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

n/a

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

None

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mark S. Cherpack, Deputy General Counsel, Department of Finance and Administration

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mark S. Cherpack, Deputy General Counsel, Department of Finance and Administration

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

20th floor, WR Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, TN 37243, (615) 253-4706, Mark.Cherpack@tn.gov.

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-13-20
Rule ID(s):	9331
File Date:	4/9/2020
Effective Date:	7/8/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Administration
Contact Person:	Mark S. Cherpack
Address:	20th floor, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville TN
Zip:	37243
Phone:	(615) 253-4706
Email:	Mark.Cherpack@tn.gov

Revision Type (check all that apply):

___ Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0620-03-10	Access to Public Records of the Department of Finance and Administration
Rule Number	**Rule Title**
0620-03-10-.01	Purpose and Scope
0620-03-10-.02	Public Records Request Coordinator
0620-03-10-.03	Requests for Access to Records
0620-03-10-.04	Responding to Public Records Requests
0620-03-10-.05	Charges and Procedures for Payment

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to
https://sos.tn.gov/products/division-publications/rulemaking-guidelines.

Chapter 0620-03-10
Access to Public Records of the Department of Finance and Administration

New Rules

0620-03-10-.01 Purpose and Scope
0620-03-10-.02 Public Records Request Coordinator
0620-03-10-.03 Requests for Access to Records
0620-03-10-.04 Responding to Public Records Requests
0620-03-10-.05 Charges and Procedures for Payment

0620-03-10-.01 Purpose and Scope

Public Chapter 712 of 2018 requires State agencies to promulgate rules implementing the Tennessee Public Records Act, including the process for making requests to inspect records and receive copies, the process for responding to requests, a statement of fees and the procedures for billing and payment, and the name and contact information of the Public Records Request Coordinator. These rules incorporate by reference all definitions in Tennessee Code Annotated §10-7-503.

Authority: T.C.A. §§ 4-5-201 et seq.; §4-4-103; §§ 4-3-1001 et seq.; §§ 10-7-503 and 10-7-506.

0620-03-10-.02 Public Records Request Coordinator

The Public Records Request Coordinator for the Department is:

Lola Potter (or a substitute to be appointed by the Commissioner and identified on the Department website)
Director of Communications
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 20th floor, Nashville, Tennessee 37243
(615) 532-8560
finance@tn.gov

Authority: T.C.A. §§ 4-5-201 et seq.; §4-4-103; §§ 4-3-1001et seq.; §§ 10-7-503 and 10-7-506.

0620-03-10-.03 Requests for Access to Records

(1) Public record requests shall be made to the Public Records Request Coordinator ("PRRC").

(2) Requests for inspection only are not required to be made in writing. Requesters may use the Department's Public Records Request Form which is Attachment A to these rules and is posted on the Department's web site.

(3) Requests for copies must be in writing and must describe with specificity the materials to be copied. The requester may use the Department's Public Records Request Form. The Requester can also use electronic mail to request inspection and/or copies.

(4) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or alternate acceptable form of identification is required as a condition to inspect or receive copies of public records; however, the Department may waive the requirement at its discretion.

Authority: T.C.A. §§ 4-5-201 et seq.; §4-4-103; §§ 4-3-1001 et seq.; §§ 10-7-503 and 10-7-506.

0620-03-10-.04 Responding to Public Records Requests

(1) The Public Records Request Coordinator (PRRC) shall review public record requests and make an initial determination of the following:

(a) If the requestor provided evidence of Tennessee citizenship;

(b) If the records requested are described with sufficient specificity to identify them; and

(c) If the Department of Finance and Administration is the custodian of the records.

(2) The PRRC shall, within seven business days, acknowledge receipt of the request and take any of the following appropriate action(s):

(a) Request proof of Tennessee citizenship, unless the PRRC can determine from the request that requiring such proof is not required. Proof shall consist of a valid Tennessee driver's license or alternative acceptable government issued photo identification.

(b) Request clarification of the request. A request for clarification is a denial of the public records request because the requester failed to make sufficiently detailed request to enable the records custodian to identify the specific records requested as required by TCA §10-7-503(a)(7)(B), and the records custodian will not be required to take further action on the request until a clarification is provided.

(c) Inform the requestor of the approximate time the request will be fulfilled and provide an estimate of the charges that may be assessed for requested copies. This may include time required for privilege review and redaction and in assembling the requested materials. If the volume is such that the documents will be produced in stages, the requester will be informed of the anticipated timing of this staged production.

(d) Deny the request. If the reason for denial is a privilege or exclusion created by law, the PRRC will provide a citation of the legal authority for the denial. If the reason for the denial is that the Department is not the custodian of the records, the PRRC is not required to research the proper custodian of the records. If the PRRC knows the identity of the proper custodian of the records, the PRRC may advise the requestor of the correct governmental entity and the PRRC for that entity if known.

(e) Promptly produce for inspection any requested documents which are immediately available for production.

(3) Documents will be made available for review at the Department's offices in Nashville. The physical location for inspection of records within the offices of Finance and Administration is 312 Rosa L. Parks Avenue N., William R. Snodgrass Tennessee Tower, 20th Floor, Nashville, Tennessee 37243. Documents may be available for review at an alternate location by agreement.

(4) Upon receipt of a request for copies, the Department shall promptly gather requested documents and, if requested, make copies in the most economic and efficient manner practicable.

(a) Copies will be available for pickup at the location specified in subsection (3) or an alternate location agreed to by the parties.

(b) Upon payment for required charges, copies will be delivered to the requestor via email transmission upon request by requestor and determination that electronic transfer is efficient. Alternatively, upon payment for postage and any other required charges, copies will be mailed to the requestor's home address via the United States Postal Service.

(5) A requester will be allowed to make copies of records with personal equipment (such as a cellular phone camera); provided, that no personal equipment may be connected to any state computer or device. If a requester seeks to make an image of the document with the use of personal equipment (such as a cellular phone camera) this is considered a request for a copy under these rules. The Department may not charge a requester for the cost of photographing a document which does not contain confidential or privileged material and which is ordinarily used by the Department in the course of its business. The Department is not required to relinquish physical custody of the requested documents and is entitled to enact reasonable requirements to protect the physical integrity and security of the documents. If the Department is required to incur labor expenses in making the document available for personal copying, including the use of computer processing, privilege review, or redaction, the requester must pay the costs applicable under these rules before being allowed to photograph the material.

(6) If a record contains confidential information or information that is not open for public inspection, the PRRC shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the PRRC shall coordinate with Department counsel, the Office of Open Records Counsel or the Office of Attorney General and Reporter.

(7) Whenever a redacted record is provided, the PRRC shall provide the requestor with the basis of the redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

Authority: T.C.A. §§ 4-5-201 et seq.; §4-4-103; §§ 4-3-1001 et seq.; §§ 10-7-503 and 10-7-506.

0620-03-10-.05 Charges and Procedures for Payment

(1) Fees and charges for copies of public records should not hinder access to public records. Fees and changes for copies and duplicates will be waived in the following circumstances:

(a) Where the copy and labor charges do not exceed $100.00;

(b) When the copies are requested by another governmental entity within the State of Tennessee;

(c) When an individual requestor establishes that he or she is indigent pursuant to federal poverty guidelines;

(d) A request to take copies with personal equipment that meets the qualifications of rule 0620-03-.04(5)

(2) The PRRC shall provide requestors with an itemized estimate of the charges prior to producing copies of records and may require pre-payment of such charges before retrieving and producing the requested records. The Department shall require the requesting party to provide full payment of the production costs before copies of the requested records are delivered or made available. Waivers of fees above $100.00 must be presented to the Deputy Commissioner of the Department, who is authorized to determine if such waiver is in the best interest of the Department and for the public good.

(3) Fees and charges for copies are as follows

(a) $0.15 per page for letter- and legal-size black and white copies.

(b) $0.50 per page for letter- and legal-size color copies.

(c) Hourly labor fees will be charged when employee time exceeds one hour in connection with production of documents. The Department will follow the Schedule of Reasonable Charges issued by the Office of Open Records Counsel effective January 20, 2017 (and any amendment to that schedule issued by that office) in calculating labor costs.

(d) If an outside vendor is used, the actual costs assessed by the vendor.

(e) If the requester asks for copies to be sent by mail or a delivery service, the charges for such mail or delivery service.

(4) Payment is to be made in cash, or by cashiers' check, payable to the Treasurer, State of Tennessee, and presented to the PRRC.

Authority: T.C.A. §§ 4-5-201 et seq.; §4-4-103; §§ 4-3-1001 et seq.; §§ 10-7-503 and 10-7-506.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 03/25/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *(12/13/19)*

Rulemaking Hearing(s) Conducted on: (add more dates). *(02/06/20)*

Date: 4/3/2020

Signature:

Name of Officer: Eugene H. Neubert

Title of Officer: Acting Commissioner

Subscribed and sworn to before me on:

Notary Public Signature:

My commission expires on:

Agency/Board/Commission: Department of Finance and Administration

Rule Chapter Number(s): 0620-03-10

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

4/8/2020
Date

Department of State Use Only

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PUBLICATIONS

Filed with the Department of State on: 4/9/2020

Effective on: 7/8/2020

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY:	State Board of Equalization
SUBJECT:	Certified and Equalized Tax Rates; Assessment of Commercial and Industrial Leasehold Interests
STATUTORY AUTHORITY:	Tennessee Code Annotated, Sections 67-5-1701 – 67-5-1705, 67-1-305, and 67-5-605
EFFECTIVE DATES:	June 30, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The certified and Equalized Tax Rates Rules encapsulate the current process for calculating certified and equalized tax rates. The rulemaking hearing rules detail the practice and practicalities of calculating certified and equalized tax rates in order to comply with the applicable statutory sections governing tax rates in Tennessee. The Assessment of Commercial and Industrial Leasehold Interests Rules encapsulate the current statutory requirements and assessment practices associated with the assessment and valuation of Commercial and industrial leasehold Interests in Tennessee.

(NOTE: Rule not submitted in redline form.)

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

These rule amendments do not affect small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

(Insert statement here)

The proposed rules will have no fiscal impact on local governments, as the rules do not alter or change the rights of any party.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Certified and Equalized Tax Rates Rules encapsulate the current process for calculating certified and equalized tax rates. The rules detail the practice and practicalities of calculating certified and equalized tax rates in order to comply with the applicable statutory sections governing tax rates in Tennessee.

The Assessment of Commercial and Industrial Leasehold Interests Rules encapsulate the current statutory requirements and assessment practices associated with the assessment and valuation of Commercial and industrial Leasehold Interests in Tennessee.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 67-5-1701 through 1705 prescribe the general requirements for the calculation of certified and equalized tax rates. T.C.A. § 67-1-305 authorizes the State Board of Equalization to promulgate rules.

TCA § 67-5-605 prescribes general requirements for the assessment of leasehold interests and specifically authorizes the State Board of Equalization to promulgate rules relative to assessments for leasehold interests.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

County Assessors of Property, Local Government Chief Executives, Local Government legislative bodies, and Lessees of government property. No comments, objections, or urging for passage have been received by any of the aforementioned entities.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None currently known.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

These rules codify existing practice or offer further explanation to existing requirements. Because there are no changes to assessments or the certified/equalized tax rate process, there will be no changes to state or local government revenue.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Betsy Knotts, Executive Secretary of the State Board of Equalization; Robin Pope, Deputy Director of the State Board of Equalization; Connie Sands, Senior Business Analyst with the State Board of Equalization.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Betsy Knotts, Executive Secretary of the State Board of Equalization; Robin Pope, Deputy Director of the State Board of Equalization.

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Betsy Knotts, Executive Secretary of the State Board of Equalization, Cordell Hull Building, 425 Fifth Ave. N., Nashville, TN 37243, (615) 401-7954, betsy.knotts@cot.tn.gov; Robin Pope, Deputy Director of the State Board of Equalization, Cordell Hull Building, 425 Fifth Ave. N., Nashville, TN 37243, 615-747-5292, robin.pope@cot.tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Available on request.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-02-20
Rule ID(s):	9327-9328
File Date:	4/1/2020
Effective Date:	6/30/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: State Board of Equalization
Division:
Contact Person: Betsy Knotts, Executive Secretary
Address: 425 Fifth Avenue North
Cordell Hull Building
Zip: 37243
Phone: 615-401-7954
Email: Betsy.Knotts@cot.tn.gov

Revision Type (check all that apply):
___ Amendment
X New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0600-13	Certified and Equalized Tax Rates
Rule Number	**Rule Title**
0600-13-.01	Purpose
0600-13-.02	Applicability
0600-13-.03	Definitions
0600-13-.04	Overview
0600-13-.05	Determining Certified and Equalized Tax Rate Calculation
0600-13-.06	Determining Estimated Centrally Assessed Property
0600-13-.07	Determining New Property
0600-13-.08	Determining Preceding Year Tax Levy
0600-13-.09	Adjustments to the Tax Rate
0600-13-.10	Appeals Allowance and Recapture Rate

Chapter Number	Chapter Title
0600-14	Assessment of Commercial and Industrial Leasehold Interests
Rule Number	**Rule Title**
0600-14-.01	Applicability
0600-14-.02	Definitions
0600-14-.03	Assessable Leasehold Interests
0600-14-.04	Valuing Commercial and Industrial Leasehold Interests

0600-13-.01 PURPOSE

These standards address the procedures, processes, time frames, and statutory responsibilities for computing and implementing certified and equalized property tax rates. They provide a reference for uniform methods for setting certified and equalized property tax rates.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.02 APPLICABILITY

These rules apply to all jurisdictions as well as multi-county jurisdictions undergoing reappraisal or current value updating during a given tax year.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.03 DEFINITIONS

As used in these rules, unless the context otherwise requires:

(1) "Appeals allowance" means either the projected loss of reappraisal assessment base due to appeals, or the portion of the certified rate attributed to this projected loss.

(2) "Appraisal ratio" means a ratio based on a comparison of appraised values recorded for real property and actual values based on recent sales and/or expert appraisals. The appraisal ratio indicates generally what percent of fair market value is represented by the appraised value of a property.

(3) "Centrally assessed property" means property that is assessed by the Comptroller of the Treasury under the provisions of T.C.A. § 67-5-1301, *et seq.*

(4) "Computer Assisted Mass Appraisal (CAMA)" means a system of appraising property that incorporates statistical analyses such as multiple regression analysis and adaptive estimation procedure to assist skilled and trained appraisers in estimating real property values.

(5) "Certified tax rate" means a tax rate calculated pursuant to the provisions of T.C.A. § 67-5-1701 that will generate the same revenue for a jurisdiction as was levied during the preceding tax year.

(6) "Construction in process (CIP)" means personal property that is treated as construction in process for federal income tax purposes as of January 1 of a given year.

(7) "Current value update (CVU)" means an updating of all real property values if the overall level of appraisal for the jurisdiction is less than ninety percent (90%) of fair market value in the third year of a six year reappraisal cycle as set forth in T.C.A. § 67-5-1601(a)(2).

(8) "Equalized tax rate" means the rate determined for cities that lie in more than one county pending a general reappraisal or current value update to adjust the city tax rate to accommodate differing levels of assessment within the city. The purpose of this approach is to adjust the city tax rate so that all properties are taxed uniformly when both the rate and assessed value are considered together.

(9) "Integrated Multi-Processing of Administrative and CAMA Technology system (IMPACT)" refers to the State's computer-assisted mass-appraisal system that maintains property tax assessments made by county assessors for the majority of Tennessee counties.

(10) "Jurisdiction" means the city or county for which the rate is being calculated.

(11) "Locally assessed property" means property that has its assessment determined by an official of the local jurisdiction where the property is located.

(12) "Multi-county jurisdiction" means a city or special school district that lies in more than one county.

(13) "New land" means real properties qualifying for greenbelt classification for the first time in the reappraisal year or real properties that no longer qualify for greenbelt classification in the reappraisal year. This may necessitate an adjustment in the tax rate (to adjust the levy for new greenbelt properties or to adjust the base for properties that no longer qualify for greenbelt classification).

(14) "New personal property" means tangible personal property taxable for the first time in the current tax year. The assessed value of new personal property is listed on line one of each group on the annual personal property schedule, with the exception of groups 7, 8 and 10.

(15) "New real property" means locally assessed real property taxable for the first time in a reappraisal or current value update tax year. Real property is defined by state law to include land, structures and improvements on land, certain mobile homes, and machinery and equipment affixed to the land.

(16) "Non-IMPACT county" means a county that maintains a Computer Assisted Mass Appraisal system other than IMPACT.

(17) "Outbuildings and yard items (OBY's)" are extra features of buildings or improvements to land not included elsewhere.

(18) "Parcel" means land, including the resources in and on it, and the buildings and permanent fixtures attached to it. It may be a contiguous tract of land or one of several lots on a plat, separately owned, either publicly or privately, and capable of being separately conveyed.

(19) "Parcel identification number" is the numeric or alphanumeric description of a parcel that identifies it uniquely.

(20) "Payments in lieu of taxes (PILOT)" are payments made by private taxpayers, often businesses, to a local government to help offset losses in property taxes with respect to property that is tax exempt.

(21) "Preceding year" means the tax year immediately preceding the current tax year.

(22) "Prorate" means to value an improvement to land completed during the tax year by reducing its full value by the proportion of the tax year before it was completed.

(23) "Raw material" means items of tangible personal property, crude or processed, which are held or maintained by a taxpayer for use through refining, combining, or any other process in the production or fabrication of another item or product.

(24) "Real property" is as defined by T.C.A. § 67-5-501(10).

(25) "Reappraisal" means a revaluation of all property within a jurisdiction completed on a continuous cycle as set forth in T.C.A. § 67-5-1601.

(26) "Recapture rate" means the actual tax rate from the reappraisal year minus the amount by which the reappraisal year certified tax rate was overstated due to an excessive appeals allowance.

(27) "Scrap property" refers to personal property no longer capable of use and for which there is no reasonable expectation of repair.

(28) "Special school district (SSD)" is a school district created by the General Assembly that collects property taxes, the rates of which are set by the General Assembly. These districts must use the legislated rate until reappraisal, after which they must use the tax-neutral rate until the General Assembly acts to set a new rate.

(29) "Tangible personal property" is as defined by T.C.A. § 67-5-501(13).

(30) "Tax increment financing (TIF)" is a tool used by local governments to encourage development in targeted areas by allocating to particular facilities the additional tax revenues produced by these facilities for a certain period.

(31) "Tax year" means the period of January 1 through December 31 of the year in which property taxes become due.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.04 OVERVIEW

These standards provide the administrative framework for setting property tax rates including certified and equalized tax rates. Included are definitions, property tax rate calculation procedures beginning with certifying the tax rate, information on various rates (levies), guidelines for increasing taxes, and procedures for final approval of the rates.

In order for a rate to be finalized, the following procedure must be followed:

(1) Certified tax rate:

(a) Assessor of property reviews calculation.

(b) After assessor review, calculation is forwarded to the chief executive of the Jurisdiction and/or SSD for approval and signature.

(c) After calculation is signed by chief executive and assessor of property, the form is returned to the State Board of Equalization.

(2) Equalized tax rate:

(a) Calculation is sent to respective Jurisdiction's chief executive.

(b) Copies of the calculation are sent to the respective assessors of property and finance directors.

(c) After calculation is signed by the chief executive and assessors of property, the form is returned to the State Board of Equalization.

(3) In order for a rate to be finalized, each taxing jurisdiction must first approve a tax rate. If the rate is less than or equal to the rate certified by the State Board of Equalization, no further documentation, other than the signed calculation form, is required by the State Board.

If the tax rate set by the Jurisdiction exceeds the rate certified by the State Board, then the appropriate documents should be submitted to the State Board per T.C.A. § 67-5-1702.

Use of mathematical rounding in rate calculations (rounding up a certified rate) is not permitted under the applicable law.

Once all legal requirements have been met in adopting a certified or equalized tax rate, the State Board of Equalization will concur in the rate and authorize release of tax notices for the respective jurisdiction.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.05 DETERMINING CERTIFIED AND EQUALIZED TAX RATES

The first step is to determine the type of calculation needed: 1) Certified tax rate; or 2) Equalized tax rate.

(1) Certified tax rate:

(a) The first step is to set a pro forma current year tax base for the jurisdiction by removing new property from the locally assessed property tax base and then adding estimated centrally assessed property.

(b) The second step is to determine the preceding year's property tax levy.

(c) The third step is to determine the certified tax rate. Divide the preceding year's property tax levy by the pro forma current year tax base and multiply by 100.

EXAMPLE

A city's preceding year tax levy is $14,352,424, and the pro forma current year tax base is $723,120,031. The following is an example of the calculation:

$14,352,424/723,120,031*100 = $1.9848 (Certified tax rate)

(2) Equalized Tax Rate:

(a) The first step is to fix a pro forma equalized current year tax base for the city by removing new property from the locally assessed tax base and then adding the estimated centrally assessed property for the part of the city lying in each county.

(b) The second step is to determine the preceding year property tax levy for each part of the city lying in different counties. These numbers from each part of the city are added together to arrive at the total preceding year property tax levy used in the fourth step.

(c) The third step is to determine the current year's equalized adjusted assessment for each part of the city by dividing the adjusted current year total assessment in each part of the city by the current year's approved appraisal ratio. These numbers are added together to arrive at the total equalized adjusted assessment used in the fourth step.

EXAMPLE

A city's current year adjusted assessment is $3,934,948 for JUR 1 and $1,545,591 for JUR 2, and the current year appraisal ratio is 1.0000 for JUR 1 and .8200 for JUR 2. The following is an example of the calculation:

JUR 1 – Adjusted Assmt.	$3,934,948	Appraisal Ratio	1.0000
JUR 2 – Adjusted Assmt.	$1,545,591	Appraisal Ratio	.8200

JUR 1 – $3,934,948/1.0000 = $3,934,948 (current year equalized adjusted assmt.)

JUR 2 – $1,545,591/.8200 = $1,884,867 current year equalized adjusted assmt.)

Add JUR 1 and JUR 2 equalized adjusted assmt.:

$3,934,948
$1,884,867
$5,819,815 (Total current year equalized adjusted assmt.)

(d) The fourth step is to determine an overall equalized tax rate by dividing the total equalized adjusted assessment by the total preceding year property tax levy times 100.

EXAMPLE

A city's total preceding year property tax levy is $44,636, and the total current year equalized adjusted assessment is $5,819,815. The following is an example of the calculation:

JUR 1 – Preceding Year Tax Levy	$30,062	Equalized Adjusted Assmt.	$3,934,948
JUR 2 – Preceding Year Tax Levy	$14,574	Equalized Adjusted Assmt.	$1,884,867
TOTAL:	$44,636	TOTAL:	$5,819,815

$44,636/$5,819,815*100 = $0.7670 (Overall Estimated Tax Rate)

(e) The fifth step is to determine the equalized tax rate for the part of the city lying in each county by dividing the overall equalized tax rate by the approved current year appraisal ratio for each county.

EXAMPLE

A city's overall equalized tax rate is $0.7670. The current year appraisal ratio for JUR 1 is 1.0000 and .8200 for JUR2. The following is an example of the calculation:

JUR 1 – $0.7670/1.0000 = $0.7670 (current year equalized tax rate)
JUR 2 – $0.7670/.8200 = $0.9353 (current year equalized tax rate)

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.06 DETERMINING ESTIMATED CENTRALLY ASSESSED PROPERTY

(1) Determining the estimated centrally assessed property includes the following two (2) components: 1) Preceding year State Board of Equalization certified assessment of centrally assessed property for the jurisdiction; and 2) Preceding year approved appraisal ratio.

(2) EXAMPLE OF DETERMINING ESTIMATED CENTRALLY ASSESSED PROPERTY:

EXAMPLE

This example assumes that the public utility assessment certified by the State Board of Equalization for the preceding year is $11,369,770 and the preceding year's approved appraisal ratio is .7912. The following is an example of the calculation:

$11,369,770/.7912=$14,370,285 ($14,370,285 = estimated centrally assessed property)

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.07 DETERMINING NEW PROPERTY

(1) New real property reporting:

New real property must be deducted from the current year pro forma tax base. Below is a listing of types of new real property that should be deducted:

(a) Dwellings
(b) Dwellings (pro-rated)
(c) OBY's
(d) OBY's (pro-rated)
(e) Commercial
(f) Commercial (pro-rated)
(g) Additions
(h) Additions (pro-rated)

(2) New personal property reporting:

(a) New tangible personal property must be deducted from the current year pro forma tax base. New tangible personal property is determined by adding together year one of each group on the personal property schedule, with the exception of the three non-depreciable groups (Group 7-scrap property; Group 8-raw materials, supplies; and Group 10-CIP).

(b) Tangible personal property which has been removed from the current year actual tax base (due to exemptions or physical removal by owners) since the preceding year should be deducted from the preceding year property tax levy.

(3) New land reporting:

(a) Properties that qualify for greenbelt classification for the first time in the reappraisal year, or that cease to qualify for greenbelt in the reappraisal year may necessitate an equalized tax rate adjustment (adjust the

preceding year tax levy for new greenbelt; adjust current year pro forma tax base for properties being removed).

(b) EXAMPLES OF DETERMINING NEW LAND:

EXAMPLE

This example treats 60 acres as divided, but in fact all 100 acres from the preceding year have been divided. If the 100-acre parcel from the preceding year has become a 40-acre parcel and 60 one-acre parcel in the current year, all the new parcels are 'child' parcels (including the 40-acre remnant), even if one of them still bears the same parcel identification number as the former 100-acre parcel. To calculate the 'new land' for tax rate purposes, take the hypothetical 'reappraisal' assessed value of the 100 acres as if it had remained intact, minus the preceding year's assessed value of the 100 acres. That difference is attributable to the reappraisal, and the balance of the new assessed value for the 40 acre and the 60 one-acre parcels, will be the 'new land.'

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.08 DETERMINING PRECEDING YEAR TAX LEVY

(1) Determining the preceding year tax levy comprises the following components: 1) Total preceding year tax base; and 2) Preceding year tax rate.

(2) EXAMPLE OF DETERMINING PRECEDING YEAR TAX LEVY:

EXAMPLE

A Jurisdiction's preceding year total tax base is $4,561,666,107 (Jurisdiction's preceding year State Board of Equalization certified total centrally assessed property + Jurisdiction's preceding year total locally assessed property) and the jurisdiction's preceding year tax rate is $2.50 for every $100 in value. The following is an example of the calculation:

$4,561,666,107/100*2.50=$114,041,653 (Preceding Year Tax Levy)

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.09 ADJUSTMENTS TO THE TAX RATE

(1) Adjustments for property tax incentives are limited to instances where an incentive payment in lieu of tax is calculated on the basis of the actual rate applied to a fixed assessment and not a percentage of an assessment.

(2) In determining TIF adjustments, the jurisdiction may also exclude from the taxable value appearing on the roll:

(a) The taxable value of properties subject to tax increment financing provisions adopted by the governing body pursuant to statute; and

(b) The taxable value of properties within an area for which an economic impact plan has been approved by the governing body.

Authority: T.C.A. §§ 4-3-5103, 67-1-305, and 67-5-1601.

0600-13-.10 APPEALS ALLOWANCE AND RECAPTURE RATE

(1) Determining the appeals allowance must be based on the proportion of atypical appeals reductions experienced by the city or county in the most recent one or more reappraisals. The allowance is derived not merely from the percentage of assessment loss due to appeals in the past reappraisal(s) but on the amount by which this percentage loss exceeded the typical assessment loss due to appeals in a non-reappraisal year. The calculation submitted to the State Board of Equalization should therefore include documentation of the total assessment base before and after appeals, for the year of the most recent

reappraisal *and* the year before the most recent reappraisal. The allowable adjustment is the percentage by which the reappraisal year percentage loss exceeded the loss from the year before. If data is available for more than one recent reappraisal, an average may be used. If no verifiable data is available, the allowance is not permitted. In order for an allowance to be administered it must be approved by the Executive Secretary of the State Board of Equalization.

(a) Explanation of calculation: The appeals allowance will appear in the certified tax rate calculation as an assessment amount to be deducted from the reappraisal year assessment base, and the amount is determined by multiplying the reappraisal year assessment base (local assessments only) times the percentage determined under item (1) above.

(b) Upon receipt of the assessor's report, the State Board staff shall record net aggregate assessment reductions by the county board of equalization in the certified tax rate file for each city and county. In addition, on or before May 1st of the year following the reappraisal, the State Board staff shall record in the certified tax rate files, the net aggregate assessment reductions by the State Board of Equalization to date for the reappraisal year. If the total of these assessment reductions exceeds the appeals allowance used in the certified tax rate, the Board shall notify the assessor and the chief executive officer of the city or county, and a certified recapture rate shall be calculated and determined for the city or county for the year following the reappraisal.

(2) The recapture tax rate shall be the actual tax rate from the reappraisal year, reduced by the amount by which the reappraisal year certified tax rate was overstated due to the excessive appeals allowance. The city or county may not exceed the certified recapture tax rate in the year following the reappraisal. without providing public notice and hearing in the same manner provided for exceeding the certified tax rate in a year of reappraisal. The city or county must provide the same compliance documentation regarding the recapture rate as is required when a certified tax rate is exceeded (affidavit of publication and certified copy of tax rate ordinance/resolution).

(3) EXAMPLE OF DETERMINING RECAPTURE RATE:

EXAMPLE

Calculation for certified recapture rate

City of _____, 2019 (as of 6-30-19)

Line no.	Item		
1	2018 assessed value	130,793,172	
2	(+) 2018 appeals allowance	1,053,000	
3	Unadjusted assessments	131,846,172	
4	(-) Net assmt. changes	849,130	
5	Adjusted base	130,997,042	
6	Certified tax rate levy	1,106,069	
7	Rate bef. 2018 increase	0.844	(line6/line5)
8	2018 increase (if any)	0.01	
9	Recapture rate	0.854	

SIGNED:_____ _____

Assessor Mayor

Authority: T.C.A. §§ 4-3-5103, 67-1-305 and 67-5-1601.

0600-14-.01 APPLICABILITY.

Unless otherwise provided herein these rules shall govern the procedure for valuation of any industrial and commercial Leasehold Interest held by a non-governmental entity in real property owned by the United States government, the State of Tennessee, any county, or any incorporated town, city or taxing district, or any agency or political subdivision thereof.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-14-.02 DEFINITIONS.

As used in these rules and in interpretation of T.C.A. § 67-5-502 and T.C.A. § 67-5-605, unless context requires otherwise:

(1) "Taxable Interest" means an interest in real property subject to assessment and taxation.

(2) "Leasehold Interest" means an interest in real property under the terms of a lease or agreement for a specified period of time.

(3) "Leasehold Owner" means the owner of the current Leasehold Interest, typically the lessee.

(4) "Real Property Interest" means an interest in real property arising from the combination of a physical relationship to the property that confers a degree of physical control over the property and the intent to exercise such control to the exclusion of others. Neither the right to use nor the right to enter and leave property is sufficient to create a Real Property Interest.

(5) "Actual Rent" means rent or other compensation paid under a lease or similar agreement.

(6) "Imputed Rent" means those costs paid by the lessee that are typically borne by the lessor or owner of the property, including the cost of capital improvements, real property maintenance, and the cost of insurance. The term of the lease or other agreement, including optional renewal terms, shall be used for purposes of amortizing the cost of real-property, capital, or other improvements borne by the Leasehold Owner.

(7) "Fair Market Rent" means the fair market annual rental value for a Leasehold Interest based upon rents paid to lease comparable properties.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-14-.03 ASSESSABLE LEASEHOLD INTERESTS.

In order for a Leasehold Interest to create a Taxable Interest:

(1) The fee interest in the real property must be exempt from property taxes;

(2) The property must be used primarily for the private benefit of the lessee with any public purpose being only incidentally served;

(3) The lease must convey a Real Property Interest in the subject property to the lessee;

(4) The property must not otherwise be the subject of a lawful agreement between a lessee and a local government, or instrumentality thereof, for payments in lieu of taxes entered into or amended on or after April 30, 2019; and

(5) The Leasehold Interest must have a taxable value.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-14-.04 VALUING COMMERCIAL AND INDUSTRIAL LEASEHOLD INTERESTS.

The value of the excess, if any, of the Fair Market Rent over the Actual Rent and Imputed Rent must first be determined. If the Fair Market Rent for a subject property is equal to or less than the combination of the Actual Rent and the Imputed Rent, then the Leasehold Interest has no taxable value. If the Fair Market Rent for a subject property exceeds the combination of the Actual Rent and the Imputed Rent, then the excess, calculated on an annual basis, is discounted over the remaining term in years, including optional renewal terms, to its present value as of the appraisal date, which represents the taxable value of the Leasehold Interest.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Tre Hargett	X				
Justin P. Wilson	X				
David h. Lillard, Jr.	X				
David Gerregano	X				
Betty Burchett	X				
Lang Wiseman	X				
David Lenoir	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on January 6, 2020 ~~(01/01/2020)~~, and is in compliance with the provisions of T.C.A. § 4-5-222.

(01/06/2020) Corrected on 4/2/2020. EFK

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *10/22/2019*

Rulemaking Hearing(s) Conducted on: (add more dates). *12/16/2019*

Date: January 6, 2020

Signature: E. Knotts

Name of Officer: Elizabeth Knotts

Title of Officer: Executive Secretary

Subscribed and sworn to before me on: January 6, 2020

Notary Public Signature: Rebecca A. Alford

My commission expires on: 3/8/2022

REBECCA A. ALFORD STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY MY COMMISSION EXPIRES 3-8-2022

Agency/Board/Commission: State Board of Equalization

Rule Chapter Number(s): 0600-13, 0600-14

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

3/23/2020
Date

Department of State Use Only

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SECRETARY OF STATE
PUBLICATIONS

Filed with the Department of State on: 4/1/2020

Effective on: 6/30/2020

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

No comments were received at the Public Rulemaking Hearing conducted on December 12, 2019.

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Commerce and Insurance
DIVISION:	Fire Prevention
SUBJECT:	One and Two Family Dwellings and Townhouses
STATUTORY AUTHORITY:	T.C.A. § 68-120-101 requires the State Fire Marshal to establish minimum statewide building construction safety standards, which shall include but not be limited to relative structural strength and stability, energy efficiency, means of egress fire resistant ratings and requirements and fire protection equipment and materials.
EFFECTIVE DATES:	July 16, 2020 through June 30, 2021
FISCAL IMPACT:	Minimal. Additional training for codes inspectors will be required, but that cost will be minimal. This rule makes no changes to existing fees.
STAFF RULE ABSTRACT:	This rulemaking hearing rule proposes the adoption of the 2018 International Residential Building Code and the 2018 International Energy Conservation Code with amendments to allow the use of the 2009 insulation and fenestration tables and the 2015 seismic design categories. Further, the proposed rule allows a local government to propose a code standard less stringent than the state standard adopted by a different local if approved by the State Fire Marshal before local adoption.

Public Hearing Comments

One copy of a document that satisfies T.C.A. §4-5-222 must accompany the filing.

1. Jonathan Sargent with Omegaflex appeared and asked the State Fire Marshal to adopt the reference standard in Chapter 44 of the 2018 version of the LC1 standard.

   The Department thanks Mr. Sargent for his participation but declined to adopt that standard. The Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

2. Stephen Jones with the International Code Council appeared and commended the State Fire Marshal for the open, transparent and inclusive process to amend the code.

   The Department thanks Mr. Jones for his participation.

3. Bryan Holland with the National Electrical Manufacturers Association (NEMA) appeared and also supported updating the most current LC1 standards and the adoption of the 2018 IRC and 2018 IECC. Mr. Holland agreed that the involvement of the stakeholders during this process has been fantastic. NEMA does have concerns regarding the exception for interconnection for smoke alarms stating that technological advancements have resolved the need for an exemption and continuing to allow them lowers the safety standards. NEMA requested that the interconnection exemption be removed but will not oppose the rules on that issue.

   The Department thanks Mr. Holland for his participation but declined to adopt his recommendations. The Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

4. Steve Mills, retired building official, appeared representing Tennessee Building Officials Association (TBOA) Board of Directors. Mr. Mills thanked the Department for the opportunity to participate in the stakeholder meetings saying they fostered a climate of cooperation and fairness.

   The Department thanks Mr. Mills for his participation.

5. Dan Johnson with the Fire Safety Inspectors' Association appeared supporting the rules and said that he appreciated the Division and the staff's cooperation and inclusion in the rulemaking process.

   The Department thanks Mr. Johnson for his participation.

6. Charles Clark with the Brick Industry Association appeared and thanked the Department for the open process allowing so many parties to participate to ensure all issues were considered. Mr. Clark appeared to address a particular issue dealing with the seismic design categories. He also noted that the Brick Industry is pleased that the Department is proposing to adopt the 2015 seismic map instead of the 2012 map.

   The Department confirmed that the proposal contained a drafting error regarding the citation to the seismic design categories, which will be corrected in the final filing.

7. Andrew Pieri with Municipal Inspection Partners appeared supporting the adoption of the 2018 code. Mr. Pieri noted that he would have preferred that the Department adopt the 2018 code without amendments and is frustrated that the Department is relaxing the insulation requirements from the 2018 code requirements and would rather the Department relax the air leakage requirements. Finally, Mr. Pieri asked that the State provide training on the 2018 code requirements for the building officials on the requirements in the energy code since there are some nuances in the 2018 code that were not in the 2009 code.

   The Department thanks Mr. Pieri for his comments, but the Department, in consultation with stakeholders

from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

8. Charles Polk with AIA appeared and expressed support of the proposal. Mr. Polk also expressed his appreciation to participate in the rulemaking process.

   The Department thanks Mr. Polk for his participation.

9. The American Chemistry Council submitted a letter supporting the adoption of the 2018 International Energy Code Council. The ACC understands that specific amendments are required for Tennessee but cautioned against weakening substantive requirements for energy efficiency.

   The Department thanks the American Chemistry Council for its comment.

10. The Citizens Group, comprised of the Southern Environmental Law Center, Southern Alliance for Clean Energy, Green I Spaces and the Tennessee Chapter of the Sierra Club, submitted a letter urging the Department to adopt the 2018 IECC without amendments to reduce Tennessee's energy consumption levels and electricity bills. Citizens Group wrote that adopting the 2018 IECC without amendments would comply with the General Assembly's intent for Tennessee to have strong energy efficiency codes and standards.

    The Department thanks the Citizens Group for its comments, but the Department, in consultation with stakeholders from various fields and industries, believes that the proposed compromise is the least burdensome and least costly proposal while maintaining minimum construction standards to afford a reasonable degree of safety to life and property.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

Analysis of Impact on Small Business pursuant to T.C.A. § 4-5-402

1. The amended rules will not overlap, duplicate or conflict with other federal, state or local governmental rules. The rules update the minimum building safety construction standards for residential structures in the statewide building program.

2. The rules have been drafted to be clear, concise and unambiguous and to resolve existing confusion and ambiguity.

3. The rules are not anticipated to alter the standard practices of reporting and recordkeeping currently utilized by small business.

4. The rules do not establish unfriendly schedules or unreasonable deadlines for compliance and reporting requirements for small businesses.

5. The rules do not increase or complicate compliance or reporting requirements for small businesses.

6. The rules establish performance standards as set forth in the adopted codes, but the rules do not restrict operational or design standards for small businesses.

7. These rules will not create any unnecessary entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement pursuant to T.C.A. § 4-5-403

1. The licensing data from the contractors' board does not distinguish between small and large contractors. The total number of licensed contractors in Tennessee is 17,370.

2. There is no foreseeable alteration in existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.

3. Small businesses involved in the construction of one and two family dwellings will be affected by the promulgation of these rules.

4. The amended rules are not anticipated to impact small businesses more significantly than the current rules provide. The proposal has addressed cost-savings measures that do not unreasonably compromise the safety standards. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.

5. There are no federal counterparts to the rule, but in 2008, the State accepted $3 billion on the condition that the State adopt a minimum energy code. A majority of local exempt jurisdictions in the state have adopted the same codes proposed under the rules, which will establish the state minimum standard for the construction of one and two family dwellings.

6. There are no possible exemptions for small businesses to the requirements contained in the proposed rules unless the contractors work exclusively in jurisdictions that have opted out of residential codes and enforce no residential building code.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The rule may impact local governments that enforce the residential codes adopted by the state or local governments that are exempt jurisdictions enforcing codes below the state minimum; those local governments may need to purchase updated code books and to provide training to local inspectors.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule proposes the adoption of the 2018 International Residential Building Code and the 2018 International Energy Conservation Code with amendments to allow the use of the 2009 insulation and fenestration tables and the 2015 seismic design categories. Further, the proposed rule allows a local government to propose a code standard less stringent than the state standard adopted by a different local if approved by the State Fire Marshal before local adoption.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-120-101 requires the State Fire Marshal to establish minimum statewide building construction safety standards, which shall include but not be limited to relative structural strength and stability, energy efficiency, means of egress, fire resistant ratings and requirements, and fire protection equipment and materials.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Contractors, homeowners, the fire service and building officials, including firefighters, codes inspectors, TBOA, local exempt jurisdictions and manufacturers of construction materials.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

OAG 13-61 (2013)

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

Minimal. Additional training for codes inspectors will be required, but that cost will be minimal. This rule makes no changes to existing fees.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director, Programs & Policy Development

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director, Programs & Policy Development
Leigh Ferguson, Chief Counsel for Fire Prevention and Law Enforcement

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway
Nashville, TN 37243

Gary.farley@tn.gov, 615-532-5805 Marybeth.gribble@tn.gov; 615- 532-3272 Leigh.j.ferguson@tn.gov; 615-360-4435

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Department of State
Division of Publications
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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-25-20
Rule ID(s):	9345
File Date:	4/17/2020
Effective Date:	7/16/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Division of Fire Prevention
Contact Person:	Leigh Ferguson
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-360-4435
Email:	Leigh.j.ferguson@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0780-02-23	One and Two Family Dwellings and Townhouses
Rule Number	**Rule Title**
0780-02-23-.02	Adoption By Reference
0780-02-23-.05	Permits
0780-02-23-.12	Local Government Enforcing Residential Building Codes and Standards

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to https://sos.tn.gov/products/division-publications/rulemaking-guidelines.

The amendments below update the minimum statewide building construction and safety standards, specifically adopting the 2018 International Residential Code (IRC) and the 2018 International Energy Conservation Code (IECC) with amendments. The rule adopts the 2015 IRC seismic design categories (seismic map) instead of the 2018 seismic design categories (seismic map), and retains the 2009 IRC and IECC requirements for Testing, Duct Testing and Air Leakage, Insulation and Fenestration Requirements. The rule removes the requirement that the permit be purchased in the jurisdiction where the work will be performed, and the rule also allows a local government to request a building standard less stringent than the state standard adopted by a different jurisdiction.

0780-02-23-.02 ADOPTION BY REFERENCE.

(1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum codes and standards for the construction of one (1) and two (2) family dwellings, ~~and~~ townhouses, and additions thereto of thirty (30) square feet or more of interior space in the sState of Tennessee shall be those prescribed in the following publications:

(a) International Residential Code (IRC), ~~2009~~ 2018 edition, published by the International Code Council, Inc. (ICC), 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C., 20001, and Appendix Q except ~~for~~ that:

1. Section R313~~,~~ Automatic Fire Sprinkler Systems~~,~~ is not mandatory, pursuant to T.C.A. § 68-120-101(a)(8).~~; and~~

2. Chapters 34-43~~,~~ relating to Electrical~~.~~ Installations are deleted and electrical standards adopted in 0780-02-01 Electrical Installations shall apply.

3. Figure R301.2(2) Seismic Design Categories is deleted and replaced with Figure R301.2(2) Seismic Design Categories Site Class D from 2015 IRC.

4. Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

   Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.

5. Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.

6. Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

7. Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.

8. Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

9. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "l": "Log

walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used."

10. Table N1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used."

(b) International Energy Conservation Code (IECC), ~~2009~~ 2018 edition, published by the ~~International Code Council, Inc., (ICC)~~, except ~~for~~ that:

1. Section ~~402.4.2.1~~ R402.4.1.2 Testing ~~option~~ is deleted and replaced with Section 402.4.2.1 Testing Option and Section 402.4.2.2 Visual Inspection Option from 2009 IECC.~~; and~~

2. Section~~403.2.2 Sealing Mandatory~~ R403.3.3 Duct Testing (Mandatory) and Section R403.3.4 Duct Leakage (Prescriptive) are optional.

3. Table 402.1.2 Insulation and Fenestration Requirements by Component and Table R402.1.4 Equivalent U-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by Component and Table 402.1.3 Equivalent U-Factors 2009 IECC.

~~(c) Amendments to the Codes and Standards:~~

~~1. IRC, Section R314.4, Power Source, relating to Smoke Alarms, is amended by deleting Exception 2 and replacing it with the following language:~~

~~Exception 2. Interconnection and hard-wiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior walls or ceiling finishes exposing the structure.~~

~~2. IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "l": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.~~

~~3. IECC, Table N1102.1, Insulation and Fenestration Requirements by Component, is amended by adding the following as footnote "m": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 4 when a Fenestration U-Factor of .35 or lower is used, a Skylight U-Factor of .60 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used.~~

(2) Paragraph (1) of this rule shall not be construed as adopting any provision of the cited publications which establishes:

(a) Any provision superseded by law;

(b) An optional or recommended, rather than mandatory, standard or practice; or

(c) Any agency, procedure, fees, or penalties for administration or enforcement purposes inconsistent with these rules.

(3) The provisions of the cited publications adopted by reference in paragraph (1) shall govern the manner in which:

(a) The codes and standards are applied to construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) or more square feet of interior space as defined in this chapter;

(b) Occupancies and types of construction are classified for the purpose of determining minimum requirements of the codes and standards; and

(c) The specific requirements of the codes and standards may be modified to permit the use of alternate materials or methods of construction.

Authority: *T.C.A. § 68-120-101(a), (b) and (d).*

0780-02-23-.05 PERMITS.

(1) ~~After October 1, 2010, n~~No construction of a one (1) or two (2) family dwelling or townhouse shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. ~~The permit shall be secured in the area where the work is to be performed until a certificate of occupancy is issued~~. A separate permit shall be required for each unit of a townhouse. Issuing agents shall ~~retain~~ receive no more than fifteen dollars ($15.00) for each issued permit. This fifteen-dollar ($15.00) fee shall be ~~retained~~ remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

(2) ~~After October 1, 2011, n~~No construction of an addition to a one (1) or two (2) family dwelling or townhouse of thirty (30) square feet or more of interior space shall be started without securing a building permit from an issuing agent authorized by the Commissioner of Commerce and Insurance, except in an exempt jurisdiction or in the unincorporated areas of a county or in a municipality that have opted out of these provisions. ~~The permit shall be secured in the area where the work is to be performed until a certificate of occupancy is issued.~~ Issuing agents shall ~~retain~~ receive no more than fifteen dollars ($15.00) for each issued permit. This fifteen-dollar ($15.00) fee shall be ~~retained~~ remitted from the applicable permit fee for inspection referenced in Tenn. Comp. R. & Regs. 0780-02-23-.08.

(3) A property owner's permit shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations. Pursuant to T.C.A. § 62-6-103, an individual may obtain only one (1) property owner's permit within a twenty-four (24) month period.

(4) (a) When applying for a permit, an applicant shall complete a form prescribed by the Department containing at least the following information:

1. The location where the work will be performed, including street address, if available;

2. A description of the work to be performed;

3. The use and occupancy of the structure;

4. The valuation of the project;

5. The square footage of the construction; and

6. The signature of the applicant.

(b) When applying for a permit, an applicant shall present:

1. Payment in an acceptable form in the amount of the permit fee; and

2. Licensure pursuant to T.C.A. Title 62, Chapter 6 (proof of licensure is not required for a property owner purchasing the permit when the property owner is performing the work).~~except for a property owner's permit).~~

(c) When applying for a permit, an applicant shall certify and have proof available, if requested, of:

1. Availability of public sewer or a septic permit; and

2. Any license or permit required by state law or local ordinance.

(5) All building permits are non-transferable.

(6) In the event more than one (1) rejection is issued during the building inspection process, an additional inspection permit shall be obtained for each subsequent rejection.

(7) (a) A building permit shall be void if the authorized work is not commenced within one hundred eighty (180) days after its issuance. If the work authorized by a permit is commenced and then suspended or abandoned for a period of one hundred eighty (180) days a building permit shall be void. The Commissioner of Commerce and Insurance, or designee, is authorized to grant one (1) or more extensions of time, for period of not more than one hundred eighty (180) days each. All extensions shall be requested in writing and justifiable cause demonstrated.

(b) Every building permit shall expire two (2) years from the date of issue or upon the issuance of the certificate of occupancy unless:

1. The Commissioner of Commerce and Insurance, or designee, determines that substantial progress has been made in the work authorized by the permit; and

2. The permit holder is granted an exception or extension after submitting a written request to the Commissioner of Commerce and Insurance, or designee.

(c) No construction work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.

(8) The original permit, along with any other required state or local permit, shall be placed on site and shall be readily available for inspection. Upon completion of a request form prescribed by the Department, a duplicate original permit may be obtained for a fee of ten dollars ($10.00) in the event of the a loss or destruction of the original permit.

(9) It shall be the responsibility of all persons performing work on the site to comply with the required codes and standards.

(10) The issuance of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter or of any state law or regulation or any ordinance of the local jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter, any state law or regulation or any ordinance of the local jurisdiction shall not be valid. The issuance of a permit based on construction documents or other data

shall not prevent the Division from requiring the correction of errors in the construction documents or other data. The Division is also authorized to prevent occupancy or use of a structure where there is a violation of the chapter or any state law or regulation.

Authority: *T.C.A. § 68-120-101(a), (b) and (d).*

0780-02-23-.12 LOCAL GOVERNMENT ENFORCING RESIDENTIAL BUILDING CODES AND STANDARDS.

~~(1)~~ Purpose. Pursuant to T.C.A. § 68-120-101, a local government may be responsible for adopting and enforcing residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space. The county or city is authorized to charge and receive a fee for each inspection performed. This rule sets forth the criteria by which local governments are authorized to adopt and enforce residential building codes and standards and the procedures by which the Division may review such authorization.

(1~~2~~) Initial Authorization.

(a) On or before July 1, 2010, or upon subsequent adoption thereof, a local government meeting the requirements of T.C.A. § 68-120-101, to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses and additions thereto of thirty (30) square feet or more of interior space, shall provide the Division with the following information:

1. The titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;

2. The number and types of inspections that will be conducted;

3. A description of the permit issuance, enforcement, and recordkeeping process for all residential inspection activities.

4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of T.C.A. §§ 68-120-101(f)(1)(B), 68-120-113, and 68-120-118; and

5. Any other documentation ~~T~~the Division ~~may request any other documentation it~~ deems necessary from a local government to evidence compliance with the requirements of T.C.A. §§ 68- 120-101, 68-120-113 and 68-120-118~~;~~. The Division ~~and~~ may conduct an on-site review of the local government's residential building permit and inspection process.

(2~~3~~) Except as provided in T.C.A. § 68-120-101, or otherwise approved in writing by the state fire marshal, no city, county, town, municipal corporation, metropolitan government, or political subdivision of the State of Tennessee shall adopt or enforce any ordinance prescribing less stringent standards of fire prevention, fire protection, or building construction safety than those established hereunder. The residential building construction and fire safety codes and standards adopted by a local government shall be current within seven (7) years of the date of the latest edition published. Any amendments to the editions of the standards and codes adopted by the local government shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration, and repair of buildings or structures within the jurisdiction. If a local government adopts a less stringent seismic standard, the local government shall submit the request in writing with a letter from an engineer registered in Tennessee confirming that the proposed standards afford, to a reasonable degree, building construction standards to protect life and property. A local

government may also request to adopt a less stringent seismic standard proposed by a different political subdivision if that standard was previously approved by the state fire marshal.

(~~3~~4) Review of Local Government Authorization.

(a) For any local government that is authorized to adopt and enforce residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space, the Division will conduct a review of the local government's authorization at least once every three (3) years. The local government shall submit the following information on a form provided by the Division within thirty (30) days of its receipt of the form.

1. The titles and editions of the residential building construction and fire safety codes and standards for one (1) and two (2) family dwellings and townhouses adopted and enforced by the local government;

2. The number and types of residential inspections that are conducted;

3. A description of the permit issuance, enforcement, and recordkeeping process for all residential inspection activities;

4. The names of all persons who are employed by the local government to perform residential building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and additions thereto of thirty (30) square feet or more of interior space and who meet the training requirements of T.C.A. §§ 68-120-101(f)(1)(B), 68-120-113 and 68-120-118; and,

5. Any other documentation ~~T~~the Division ~~may request any other documentation it~~ deems necessary from the local government to evidence compliance with the requirements of T.C.A. §§ 68-120-101, 68-120-113 and 68-120-118. ~~and~~ The Division may conduct an on-site review of the local government's residential building permit and inspection process.

(b) Each local government selected for an on-site review pursuant to this paragraph shall be notified of the review in writing.

(c) Report of Review.

6. After conclusion of the review, the Division shall notify the local government in writing whether the local government's adopted residential building construction and fire safety codes and standards are current as required by law, whether there are any areas in which the local government is not adequately enforcing the adopted codes and standards, and whether the local government's personnel is properly performing inspections.

7. If the local government has not adopted current residential building codes and standards, is not adequately enforcing the adopted codes and standards, or is not properly performing inspections, the notification shall contain recommended corrective action, and the local government shall be directed to submit a plan of corrective action to the Division within thirty (30) days after its receipt of the notification. The plan of corrective action shall be sufficiently detailed so as to ensure compliance with all requirements for initial authorization.

8. Within thirty (30) days after receipt of the local government's plan of corrective action, the Division shall either approve or disapprove the plan. If the plan is approved, the Division may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the Division may remove the local government's authorization to conduct building inspections on the construction of one (1) and two (2) family dwellings, townhouses, and

additions thereto of thirty (30) square feet or more of interior space.

Authority: *T.C.A. § 68-120-101(a), (b) and (d).*

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner (board/commission/ other authority) on 2/24/20 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: August 27, 2019

Rulemaking Hearing(s) Conducted on: (add more dates). October 18, 2019

Date: 2/24/2020

Signature: Hodgen Mainda

Name of Officer: Hodgen Mainda

Title of Officer: Commissioner

DENISE M. LEWIS STATE OF TENNESSEE NOTARY PUBLIC WILSON COUNTY

Subscribed and sworn to before me on: 2/24/2020

Notary Public Signature: Denise M. Lewis

My commission expires on: 12/10/2023

Agency/Board/Commission: Department of Commerce & Insurance / Division of Fire Prevention

Rule Chapter Number(s): 0780-02-23

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

4/14/2020
Date

Department of State Use Only

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PUBLICATIONS

Filed with the Department of State on: 4/17/2020

Effective on: 7/16/2020

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY:	Auctioneer Commission
DIVISION:	Regulatory Boards
SUBJECT:	Regulations of Auctioneers; Continuing Education
STATUTORY AUTHORITY:	Chapter 471 of the Public Acts of 2019
EFFECTIVE DATES:	July 12, 2020 through June 30, 2021
FISCAL IMPACT:	One-time cost of approximately $3,200
STAFF RULE ABSTRACT:	These rulemaking hearing rules are in response to recent statutory changes made with the passage of Public Chapter 471 and signed into law on May 24, 2019 by Governor Bill Lee. These statutes were passed as a result of the findings from the Auctioneer Law Modernization Task Force. The proposed rules make amendments to two (2) different chapters and a total of twenty (20) different rules. Most of the rules update the new language provided in the Public Chapter, including the updated titles of affiliate auctioneer and principal auctioneer. Additionally, all references to galleries and firms were removed as those licenses were repealed. These rules also help clarify the requirements for licensure, continuing education, qualifying education, as well as, standards and regulations for auctioneers. The rules also include a new fee for bid caller licensees and remove the fee for pocket card licenses.

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

_____
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comment 1: Please accept the following comments regarding the proposed revised regulations for consideration by the Commission on Monday, February 24, 2020.

Nashville Auction School fully supports moving the proposed rules forward to avoid any further delay in having rules in place; however, we would like to be on the record for voicing our concern about the wording of two specific proposed rules. It is our opinion that the spirit and intent of these rules is correct; however, the language is not entirely clear to the intent. After reviewing with legal counsel, Ms. Anna Matlock, we are comfortable with the department's understanding and enforcement of these rules, as written.

Rule 0160-01-.20 Advertising Guidelines.
The language of this rule implies that a bid caller auctioneer may advertise an auction; however, because the law specifically limits the bid caller license, we understand this rule does not authorize the bid caller auctioneer to take responsibility for the conduct or advertising of an auction; and we will instruct our students accordingly.

Rule 0160-01-.26 Escrow Account Requirement.
The language of this rule may create confusion for auctioneers who are working under a company that holds an escrow or trustee account for auction funds generated from the company's auction contracts.

It is our understanding that all principal and/or public automobile auctioneers that are acting as sole proprietors or as the owners of a corporation or LLC are required to hold and maintain an escrow or trustee account.

We also understand and agree with legal counsel for the Commission that principal and/or public automobile auctioneers that are employed or affiliated with an established auction company holding an escrow or trustee account, cannot maintain a separate escrow or trustee account in their name.

We will instruct our students accordingly.

At this time, we are not requesting any change to the proposed rules. We respectfully request our comments on the following rules be added to the official record of this rulemaking hearing.

Response 1: As no changes or amendments of the proposed rules were presented in this comment, the Commission elected to not make a specific comment for this received written comment.

Comment 2: In regard to Rule 0160-01-.26 the issue that I see is that we have now made everyone a principal auctioneer and the rule says all principal auctioneers shall maintain an escrow or trust account. Under previous license structure firms would have multiple auctioneers that hung their licenses at one location. Consequently, those auctioneers would operate under that firm's commission-approved escrow account. There are multiple firm set-ups that will now dissolve that have fifteen (15) to twenty (20) auctioneers underneath them. Are those auctioneers required to have their own escrow account? It is very problematic in the state of Tennessee to get an escrow account if you don't have a business. I think there needs to be clarification because there are firms that have twenty (20) to thirty (30) auctioneers utilizing one escrow account. If we've tried to ease the barrier of entry

escrow account if you don't have a business. I think there needs to be clarification because there are firms that have twenty (20) to thirty (30) auctioneers utilizing one escrow account. If we've tried to ease the barrier of entry from the beginning what this rule is going to do is require hundreds of licensed auctioneers that are automatically going to go from under a firm to becoming a principal to now having to open their own business and basically be stand-alone auctioneers. I think that is opposite of the Task Force intent from the beginning, then nature of the law is good, but the rules need improvement. Rule 0160-01-.20 refers to advertising. I would like for there to be clarification regarding the responsible party. In Rule 0160-01-.05 it states just the individual's name. I would like clarification that the responsible party needs to have their name listed and as well as their license number.

Response 2: The Commission voted to accept the amended proposed changes. Specifically, Tenn. Comp. R. & Regs. 0160-01-.05 was amended to include the language "license number." Additionally, further information was provided for the escrow accounts in Tenn. Comp. R. & Regs. 0160-01-.26. The Commission decided to allow individuals to have the option of maintaining their own escrow account, or to have access to an escrow account with written permission stating such. The Commission also voted to maintain that all principal and automobile auctioneers are responsible for money that is placed into an escrow or trust account.

Comment 3: The trouble with what we are wrestling with is how "principal auctioneer" as defined and what that means in real world terms. What I am seeking is clarification in the rules, in the form of what the Task Force was trying to do when an affiliate auctioneer upgrades to a principal auctioneer. At the end of their affiliate time period, they will take the state test and upon passing become a principal auctioneer. Do new auctioneers have to declare that they are working for a specific firm or is there an assumption made they work under their sponsor? How do we treat the auctioneer after six (6) months when their affiliate period concludes? There needs to be something in the rules and regulations to allow them to work underneath someone, because we need to know who is responsible.

Response 3: No specific changes or amendments of the proposed rules were presented in this comment. However, the Commission did provide clarification. The Commission stated that if any auctioneer is working for a company or firm, even if as an independent contractor, then both the names of the individual and the company need to be placed on the contracts, escrow account, and the advertisements. The Commission also further clarified that principal or public automobile auctioneers need to have either their own escrow account or trust account, or written permission granting access to the account. The Commission clarified it is not regulating the company or firm, but the individual principal or public automobile auctioneer licensed with the Commission. Lastly, the number of individuals on a specific escrow account will not be regulated by the Commission and is not in its purview.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rules do not affect small businesses directly. Although the rules may have an impact on small businesses in the auctioneer industry. The impact, if any, will be minimal as the main purpose of these rules is to implement statutory changes enacted by the General Assembly. The proposed amendments would benefit small businesses in the auctioneer industry and its consumers. The rules streamline certain aspects of the industry and clarify standards and requirements for licensure, continuing education, and standards for the industry.

The Commission knows of no other less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rules. The various amendments would require minimal costs for compliance. Many of the states that regulate the auctioneer industry have similar rules and regulations, thus allowing Tennessee rules consistent with other jurisdictions and allowing license portability easier for current and future licensees. The Commission foresees minimal, if any, impact to consumers with the promulgation of the proposed rules. An exemption for small businesses would not be beneficial.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Tennessee Auctioneer Commission foresees no impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules are in response to recent statutory changes made with the passage of Public Chapter 471 and signed into law on May 24, 2019 by Governor Bill Lee. These statutes were passed as a result of the findings from the Auctioneer Law Modernization Task Force. The proposed rules make amendments to two (2) different chapters and a total of twenty (20) different rules. Most of the rules update the new language provided in the Public Chapter, including the updated titles of affiliate auctioneer and principal auctioneer. Additionally, all references to galleries and firms were removed as those licenses were repealed. These rules also help clarify the requirements for licensure, continuing education, qualifying education, as well as, standards and regulations for auctioneers. The rules also include a new fee for bid caller licensees and remove the fee for pocket card licenses.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 471 was signed into law on May 24, 2019 by Governor Bill Lee. Following its passage, these rules were necessary to reflect the statutory changes. There is no known federal law or regulation mandating promulgation of such rule of establishing guidelines relevant thereto.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rules would affect current licensees and future applicants. We believe that all affected would approve of the adoption of these rules because the proposed rules are beneficial to all industry members.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial ruling that directly relate to the rules.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

With the promulgation of these rules, the Commission foresees minimal impacts to state and local government revenues and expenditures. Specifically, the Commission anticipates a one-time cost of approximately three thousand two hundred dollars ($3,200.00) in technological expenses to implement the rules as amended.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Anna D. Matlock, Associate General Counsel of the Tennessee Auctioneer Commission
Roxana Gumucio, Executive Director of the Tennessee Auctioneer Commission

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Anna D. Matlock, Associate General Counsel of the Tennessee Auctioneer Commission

Roxana Gumucio, Executive Director of the Tennessee Auctioneer Commission

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Anna D. Matlock
500 James Robertson Parkway, Nashville, TN 37243
(615) 741-3072
Anna.Matlock@tn.gov

Roxana Gumucio
500 James Robertson Parkway, Nashville, TN 37243
(615) 532-7081
Roxana.Gumucio@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-19-20
Rule ID(s):	9334-9335
File Date:	4/13/2020
Effective Date:	7/12/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Auctioneer Commission
Division:	Regulatory Boards
Contact Person:	Anna D. Matlock
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	(615) 741-3072
Email:	Anna.Matlock@tn.gov

Revision Type (check all that apply):

X Amendment
___ New
X Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row).

Chapter Number	**Chapter Title**
0160-01	Regulations of Auctioneers
Rule Number	**Rule Title**
0160-01-.01	Duties of Auctioneer
0160-01-.02	Unlawful Rebates
0160-01-.05	Publication of Name
0160-01-.06	Dates of Examination
0160-01-.10	Auction Schools
0160-01-.11	Civil Penalties
0160-01-.12	Apprentices – Sponsors- Supervision
0160-01-.14	Fees
0160-01-.15	Nonresident Auctioneer
0160-01-.16	Non-Auctioneer Owned Firms
0160-01-.20	Advertising Guidelines
0160-01-.21	Disclosure of Buyer's Premium
0160-01-.22	Late Renewal of License
0160-01-.23	Retirement of License

0160-01-.24	Notification of Change of Information
0160-01-.25	Public Automobile Auction and Public Automobile Auctioneer License
0160-01-.26	Escrow Account Requirement
0160-01-.27	Livestock Auction Sales

Chapter Number	**Chapter Title**
0160-03	Continuing Education
Rule Number	**Rule Title**
0160-03-.01	Definitions
0160-03-.03	Basic Requirements

Redline – Rulemaking Hearing
Tennessee Auctioneer Commission

Chapter 0160-01
Regulations of Auctioneers
Amendments

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0160-01-.01	Duties of Principal or Public Automobile Auctioneer	0160-01-.16	~~Non-Auctioneer Owned Firms~~ Repealed
0160-01-.02	Unlawful Rebates	0160-01-.17	Charity Auction Exemption
0160-01-.03	Repealed	0160-01-.18	Electronic Media Auction License
0160-01-.04	Repealed	0160-01-.19	Types of Auctions Defined
0160-01-.05	Publication of Name	0160-01-.20	Advertising Guidelines
0160-01-.06	Dates of Examinations	0160-01-.21	Disclosure of Buyer's Premium
0160-01-.07	Repealed	0160-01-.22	Late Renewal of License
0160-01-.08	Repealed	0160-01-.23	Retirement of License
0160-01-.09	Assistants	0160-01-.24	Notification of Change of Information
0160-01-.10	Auction Schools	0160-01-.25	Public Automobile Auction and Public
0160-01-.11	Civil Penalties		Automobile Auctioneer License
0160-01-.12	~~Apprentice~~ Affiliates - Sponsors- Supervision	0160-01-.26	Escrow Account Requirement
0160-01-.13	Repealed	0160-01-.27	Livestock Auction Sales
0160-01-.14	Fees	0160-01-.28	Online Auctions
0160-01-.15	Non-resident Auctioneer	0160-01-.29	Military Applicants

Rule 0160-01-.01 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.01 shall read:

0160-01-.01 DUTIES OF PRINCIPAL OR PUBLIC AUTOMOBILE AUCTIONEER.

~~(1)~~ The principal or public automobile a~~A~~uctioneer shall be responsible for the advertising and management of the sale and account for all proceeds therefrom and shall, over his or her signature, issue a closing statement to the seller or sellers.

~~(2) No licensed auctioneer shall accept offers for hire to call bids at any auction held by an auction house, auction barn, or auction gallery that is not either:~~

~~(a) Owned and operated by a licensed auctioneer holding a valid firm license; or~~

~~(b) Licensed as a gallery pursuant to the provisions of T.C.A. § 62-19-125.~~

Authority: *T.C.A. §~~§ 62-1906,~~ 62-19-106~~, and 62-19-125~~.*

Rule 0160-01-.02 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.02 shall read:

0160-01-.02 UNLAWFUL REBATES.

It shall be unlawful for a~~ny~~ person licensed under the provisions of this act to rebate any part of his or her commission to any person or persons not holding a real estate license or ~~apprentice auctioneer license or~~ any auctioneer license.

Authority: *T.C.A. § 62-19-106.*

Rule 0160-01-.05 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.05 shall read:

0160-01-.05 PUBLICATION OF NAME.

(1) All advertising of an auction sale must be made in the name and license number of the licensee who shall bear responsibility of the sale to the seller, general public and auctioneer commission.

(2) All advertising ~~of an auction sale by an auction firm not owned by a licensed auctioneer~~ shall include the name of ~~its~~ the principal or public automobile auctioneer, and the principal or public automobile auctioneer shall attend all auction sales.

Authority: *T.C.A. §§ 62-19-102, 62-19-106, and 62-19-111~~, and 62-19-125~~.*

Rule 0160-01-.06 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.06 shall read:

0160-01-.06 DATES OF EXAMINATIONS.

~~(1)~~ The Commission shall, in conjunction with the current contractor, administer the examination on the dates provided by the contractor five (5) days per week excluding holidays;~~.~~ Pprovided, however, ~~that~~ no examination shall be administered to an applicant who ~~lacks~~ is more than ~~ninety (90)~~ twenty-five (25) days short of completing the ~~two (2) year apprenticeship.~~ six (6) months required for an affiliate auctioneer license.

Authority: *T.C.A. §§ 62-19-106(b) and (e) and 62-19-111(b) and (c).*

Rule 0160-01-.10 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.10 shall read:

0160-01-.10 AUCTION SCHOOLS.

(1) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for ~~an~~ bid caller, affiliate ~~apprentice~~, or principal auctioneer~~, or firm~~ license), an auction school must:

(a) Execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;

(b) Have a permanent business location;

(c) Conduct a minimum of ~~eighty (80)~~ fifty (50) hours of classroom or online instruction, including sixteen (16) hours in basic fundamentals, ~~including~~ and at least ~~forty (40)~~ twenty-five (25) hours under the supervision of a licensed auctioneer with at least ~~five (5)~~ three (3) years of experience;

~~(d) For applicants applying for an upgrade from apprentice affiliate to principal auctioneer, conduct a minimum of thirty-f (304) hours of instruction, including at least fifteen (15) seventeen (17)hours of instruction given by a licensed auctioneer with at least five (5) three (3) years of experience;~~

~~(e)~~(d) Maintain a pass/fail grading system, with a supplementary "good/fair/poor" designation;

~~(f)~~(e) Provide instruction in public speaking, bid calling, sales management, advertisements, contracts, closing statements, license law, the Uniform Commercial Code, bulk sales and firearms; and

~~(g)~~(f) Demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

(2) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for an automobile auctioneer license), an auction school must:

(a) Execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;

(b) Have a permanent business location;

(c) Conduct a minimum of ~~thirty (30)~~ fifteen (15) hours of rigorous classroom or online instruction in automobile auctioneering, including instruction in ethics of automobile auctions, registration and licensing of motor vehicles, transfers of title and registration, and rules and statutes relating to public automobile auctions~~.~~; and

(d) Demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

Authority: *T.C.A. §§ 62-19-106(b)~~,~~ and 62-19-111~~(b) and (d) and Public Chapter 724 of the Public Acts of 2008 §§ 3 and 8~~.*

Rule 0160-01-.11 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.11 shall read:

0160-01-.11 CIVIL PENALTIES.

(1) With respect to any person required to be licensed by the Commission, the Commission may assess a civil penalty against such person in accordance with the following schedule:

Violation	Penalty
~~T.C.A. § 62-19-102(a)(2)~~	~~0 - $1,000~~
~~T.C.A. § 62-19-102(a)(3)~~	~~0 - $1,000~~
T.C.A. § 62-19-102	0 - $1,000
T.C.A. § 62-19-112(b)(1)	0 - $1,000
T.C.A. § 62-19-112(b)(2)	0 - $1,000
T.C.A. § 62-19-112(b)(3)	0 - $1,000
T.C.A. § 62-19-112(b)(4)	0 - $1,000
T.C.A. § 62-19-112(b)(5)	0 - $1,000
T.C.A. § 62-19-112(b)(6)	0 - $1,000
T.C.A. § 62-19-112(b)(7)	0 - $1,000
T.C.A. § 62-19-112(b)(8)	0 - $1,000
T.C.A. § 62-19-112(b)(9)	0 - $1,000
T.C.A. § 62-19-112(b)(10)	0 - $1,000
T.C.A. § 62-19-112(b)(11)	0 - $1,000
T.C.A. § 62-19-112(b)(12)	0 - $1,000
T.C.A. § 62-19-112(b)(13)	0 - $1,000
T.C.A. § 62-19-112(b)(14)	0 - $1,000
~~T.C.A. § 62-19-125(a)~~	~~0 - $1,000~~
~~T.C.A. § 62-19-125(b)~~	~~0 - $1,000~~
T.C.A. § 62-19-128(b)	0 - $1,000
T.C.A. § 62-19-128(c)	0 - $1,000
T.C.A. § 62-19-128(d)	0 - $1,000
T.C.A. § 62-19-128(e)	0 - $1,000
T.C.A. § 62-19-128(f)	0 - $1,000
Any Commission Rule or Order	0 - $1,000

(2) Each day of a continued violation under paragraph (1) constitutes a separate violation.

(3) The Commission's administrative director and investigator, acting on behalf of the Commission,

may issue citations to unlicensed individuals or entities in accordance with T.C.A. § 62-19-126 and the following schedule:

Violation	Penalty
T.C.A. § 62-19-102 ~~(a) (1)~~	$50-$2,500
~~T.C.A. § 62-19-102 (a) (2)~~	~~$50-$2,500~~
~~T.C.A. § 62-19-102 (b)~~	~~$50-$2,500~~
~~T.C.A. § 62-19-125 (a)~~	~~$50-$2,500~~

(4) In determining the amount of any penalty to be assessed pursuant to this rule, the Commission may consider such factors as the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk of harm to the public;

(d) The economic benefits gained by the violator as a result of non-compliance; and

(e) The interest of the public.

Authority: *T.C.A. §§ 56-1-308, 62-19-106, ~~62-19-106(b),~~ 62-19-116~~2~~, and 62-19-126~~, Public Acts of 1989 Chapter 389, Section 1, and Chapter 724 of the Public Acts of 2008, § 8.~~*

Rule 0160-01-.12 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.12 shall read:

0160-01-.12 ~~APPRENTICES~~ AFFILIATES - SPONSORS - SUPERVISION.

(1) In order to be permitted to sponsor an ~~apprentice~~ affiliate auctioneer, a~~n~~ principal or public automobile auctioneer must ~~have~~ be~~en~~ licensed for at least ~~two (2)~~ one (1) year~~s~~ and be in good standing with the Commission.

(2) Any ~~apprentice~~ affiliate auctioneer so sponsored shall be under the direct supervision of his~~/~~ or her sponsor or under the direct supervision of his~~/~~ or her non-sponsoring employer auctioneer if acting pursuant to paragraph (~~8~~6).

~~(3) The number of apprentice auctioneers that an auctioneer may sponsor at any one time shall be limited to three.~~

~~(4)~~(3) A sponsoring principal or public automobile auctioneer is to be responsible and accountable for the auctioneering activities of any ~~apprentice~~ affiliate auctioneer associated with such auctioneer.

~~(5) All sponsoring auctioneers shall reside in the same state as his/ her apprentice auctioneer(s). However, in appropriate cases, upon good cause being shown, the Commission may waive this rule.~~

~~(6)~~(4) Any legal document relative to conducting, or offering to conduct, any auction shall be executed by a~~n~~ principal or public automobile auctioneer, or by an ~~apprentice~~ affiliate auctioneer with the approval of his~~/~~ or her sponsor so noted on the document.

~~(7)~~(5) Any advertisement placed by an ~~apprentice~~ affiliate auctioneer must clearly and conspicuously identify the ~~apprentice~~ affiliate auctioneer as such, contain his~~/~~ or her license number~~,~~ and the name and license number of his~~/~~ or her sponsor~~'s firm~~.

~~(8)~~(6) An ~~apprentice~~ affiliate auctioneer may be employed by a licensed principal or public automobile auctioneer who is not designated as the ~~apprentice's~~ affiliate's sponsor if the following terms and conditions are met:

(a) The ~~apprentice~~ affiliate auctioneer must first notify the ~~c~~Commission of such employment on a form approved by the Commission. The form shall include the written permission of the ~~apprentice's~~ affiliate's sponsor and shall contain the notarized signatures of the ~~apprentice~~ affiliate auctioneer, the sponsoring principal or public automobile auctioneer and the non-sponsoring employer principal or public automobile auctioneer;

(b) The non-sponsoring employer auctioneer must be currently licensed as a~~n~~ principal or public automobile auctioneer in the State of Tennessee and must be in good standing with the Commission; and

~~(c) All non-sponsoring employer auctioneers shall reside in the same state as the apprentice auctioneer(s). However, in appropriate cases, upon good cause being shown, the Commission may waive this rule; and~~

~~(d)~~(c) Any violation of this rule shall subject the ~~apprentice~~ affiliate auctioneer, the sponsoring principal or public automobile auctioneer and/or the non-sponsoring employer principal or public automobile auctioneer to disciplinary action by the Commission.

~~(9)~~(7) An ~~apprentice~~ affiliate:

(a) May not execute a contract to conduct an auction without the approval of his~~/~~ or her sponsor noted on the document, but ~~he/she~~ an affiliate may sign a contract in order to indicate he~~/~~ or she procured the client and the auction.

(b) May not sign a closing statement or have an escrow or trust account in his~~/~~ or her name as a depository for auction proceeds, but he~~/~~ or she may take part in the closing and settlement proceedings of an auction. An ~~apprentice's~~ affiliate's sponsoring auctioneer is responsible for keeping the account of and dispersing money received at an auction.

(c) May not call bids at an auction without the presence of his~~/~~ or her sponsor. An ~~apprentice's~~ affiliate's sponsor is responsible for all auctioning activities of the ~~apprentice~~ affiliate and must be physically present to monitor those activities.

~~(10)~~(8) An ~~apprentice~~ affiliate shall provide the Tennessee Auctioneer Commission with sufficient proof that he~~/~~ or she has been active during ~~his/her apprentice~~ the affiliateship. Each ~~apprentice~~ affiliate shall use a log as a means to keep track of his~~/~~ or her experience during the ~~two (2) year~~ six (6) month ~~apprentice~~ affiliateship period. The log shall be completed and submitted with ~~his/her~~ the application for a~~n~~ principal or public automobile auctioneer license, at the conclusion of the ~~apprentice~~ affiliateship.

(a) Points. An auction is divided into eight (8) parts. Each part has a point value assigned to it. Performance of any of the activities listed ~~on the Point System Chart~~ in paragraph (9) of this rule earns the ~~apprentice~~ affiliate the corresponding points. The details of these activities and their point values shall be included in an ~~apprentice's~~ affiliate's log. During the ~~two (2) year~~ six (6) month ~~apprentice~~ affiliateship period, an ~~apprentice~~ affiliate shall obtain a minimum of 1,000 points in order to be eligible for a~~n~~ principal or public automobile auctioneer license. This is the substantial equivalent of working five (5) auctions from beginning to end.

(b) Sponsor's Signature. A sponsoring principal or public automobile auctioneer shall acknowledge each auction activity recorded in his~~/~~ or her ~~apprentice's~~ affiliate's log, by signing and dating in the appropriate space after each entry of activity.

(c) Accumulating Points. An ~~apprentice~~ affiliate should make every effort to obtain and log experience in all phases of the auction business. An ~~apprentice~~ affiliate shall not submit a log with all of his~~/~~ or her experience concentrated in fewer than four (4) auction activities. The purpose of the log is to indicate to the Commission that the ~~apprentice~~ affiliate has been fully exposed to the auction business and has participated in as many areas of the auction process as possible.

~~(11)~~(9) ~~POINT SYSTEM CHART~~ An affiliate shall complete each of the following categories to receive points:

~~ACTIVITY~~	~~DESCRIPTION~~	~~POINTS~~
~~CONTRACT~~	~~Complete and execute a contract with a seller (In accordance with subparagraph (9)(a) of this rule).~~	~~20~~
~~ADVERTISING~~	~~Write inventory/create a newspaper ad/erect signs.~~	~~20~~
~~SALE PREPARATION~~	~~Prepare inventory for an auction or set up auction equipment.~~	~~20~~
~~BID CALLING~~	~~Call bids at an auction.~~	~~60~~
~~BID ASSISTANT/ WORKING RING~~	~~Work the ring at an auction for at least one (1) hour.~~	~~40~~
~~CLERKING/ CASHIERING~~	~~Clerk at least 30% of an auction or collect money for at least 30% of an auction.~~	~~20~~
~~CLOSING~~	~~Participate in balancing auction proceeds and assist in preparation of a closing statement.~~	~~20~~
	~~TOTAL POINTS~~	~~200~~

(a) Contracts: Complete and execute a contract with a seller (in accordance with subparagraph (7)(a) of this rule), twenty (20) points;

(b) Advertising: Write an inventory/create a newspaper ad/erect signs, twenty (20) points;

(c) Sale Preparation: Prepare an inventory for an auction or set up auction equipment, twenty (20) points;

(d) Bid Calling: Call bids at an auction, sixty (60) points;

(e) Bid Assistant/Working Ring: Work the ring at an auction for at least one (1) hour, forty (40) points;

(f) Clerking/Cashiering: Clerk at least thirty percent (30%) of an auction or collect money for at least thirty percent (30%) of an auction, twenty (20) points; and

(g) Closing: Participate in balancing auction proceeds and assist in preparation of a closing statement, twenty (20) points.

Authority: *T.C.A. §§ 62-19-106, ~~62-19-106(b),~~ 62-19-111, and 62-19-112(b)(7)~~, and Public Acts of 1997 Chapter 91, 5~~.*

Rule 0160-01-.14 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.14 shall read:

0160-01-.14 FEES

(1) Each application for licensure shall be accompanied by a non-refundable application fee of fifty dollars ($50.00).

(2) Fees for the issuance of initial licensure and the renewal thereof shall be as follows:

~~Auctioneer License ..... one hundred seventy-five dollars ($175)~~
~~Apprentice Affiliate Auctioneer License..... one hundred twenty-five dollars ($175)~~
~~Principal Office Firm License..... one hundred twenty-five dollars ($125) Gallery License ..... one hundred seventy-five dollars ($175)~~
~~Auction Firm Branch License..... seventy-five dollars ($75)~~
~~Gallery Branch License..... seventy-five dollars ($75)~~
~~Auctioneer Education and Recovery Account Fee .....fifty dollars ($50)~~
~~Public Automobile Auctioneer License ..... one hundred seventy-five dollars ($175)~~
~~Public Automobile Auction License..... one hundred seventy-five dollars ($175)~~

~~Licenses are valid for two (2) years from the date of their issuance and may be renewed within the sixty (60) days immediately preceding their date of expiration.~~

(a) Principal Auctioneer License, one hundred seventy-five dollars ($175.00);

(b) Affiliate Auctioneer License, one hundred twenty-five dollars ($125.00);

(c) Bid Caller Auctioneer License, one hundred fifty dollars ($150.00);

(d) Public Automobile Auctioneer License, one hundred seventy-five dollars ($175.00);

(e) Public Automobile Auction License, one hundred seventy-five dollars ($175.00);

(f) Auctioneer Education and Recovery Account Fee, fifty dollars ($50.00); and

(g) Replacement license, thirty-five dollars ($35.00).

(3) Licenses are valid for two (2) years from the date of their issuance and must be renewed on or before their expiration date. The commission may, in its discretion, renew the license upon application within the sixty (60) days immediately preceding its date of expiration.

~~(3)~~(4) A licensee shall pay a one-time fee of one hundred fifty dollars ($150.00) for the retirement of a~~n~~ principal auctioneer, ~~apprentice~~ affiliate auctioneer, or public automobile auctioneer license. An application for activation of a retired license shall be accompanied by an application fee of one hundred dollars ($100.00), the applicable license fee and the Auctioneer Education and Recovery Account fee.

~~(4)~~(5) An applicant who fails a license examination shall pay a fee as set by contract with the Auctioneer Commission license examination administrator for each subsequent re-examination.

~~(5) The fee for a replacement license and pocket card is thirty-five dollars ($35.00).~~

Authority: *T.C.A. §§ 62-19-106(b), 62-19-111,* and *62-19-116~~,62-19-116(c), and Chapter 724 of the Public Acts of 2008, § 8~~.*

Rule 0160-01-.15 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.15 shall read:

0160-01-.15 NON-RESIDENT AUCTIONEER

(1) Disciplinary sanctions against a non-resident licensee imposed by the licensee's home state or any other state shall be grounds for disciplinary action by the Commission in accordance with T.C.A. § 62-19-112 and these rules.

(2) Each application for a non-resident principal or public automobile auctioneer ~~firm~~ license shall be accompanied by documentation from a bank that includes the name and address of the bank, the account number of the non-resident principal or public automobile auctioneer's ~~firm's~~ escrow account and the signature and title of the bank officer issuing the documentation. The documentation shall further include a statement ~~signed by an owner or other appropriate member of the auction firm,~~ authorizing the Tennessee Auctioneer Commission, or its agents, to audit the escrow account.

Authority: *T.C.A. §§ 62-19-106, 62-19-112, and 62-19-117~~, and Public Acts of 1990, Chapter 1026, Section 4~~.*

Rule 0160-01-.20 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.20 shall read:

0160-01-.20 ADVERTISING GUIDELINES.

(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the principal or public automobile auctioneer ~~firm or gallery~~ responsible for holding the sale.

(2) False, deceptive, misleading and untruthful advertising is expressly prohibited. Any advertisement or advertising shall be deemed to be false, deceptive, misleading or untruthful~~,~~ if it:

(a) Contains a misrepresentation of fact.

(b) Is misleading or deceptive because in its content or, in the context in which it is presented, it makes only a partial disclosure of relevant facts.

(c) Creates a false or unjustified expectation of the services to be performed.

(d) Contains any representation or claim that the advertising licensee in bad faith fails to perform.

(e) Advertises any auction using such descriptive words as "Urgent," "Emergency," "Distress," or any other word which connotes a liquidation of assets or that the buyers will, for some extraordinary reason, be in a position to reap some unusual bargain, without specifically disclosing~~,~~ the reason that the sale is "urgent," the nature of the "emergency" or the cause of the "distress." In a written advertisement, the reason, nature, and cause shall be set forth in a print size equal to the descriptive word used.

(f) Advertises any auction using descriptive words such as "Seized," "Confiscated," "Forfeited," or any other word which connotes a governmental action; the sale of items seized or taken by a government department, agency or commission; or that buyers will for some governmental reason be in a position to reap some unusual bargain, without specifically disclosing the exact nature of the governmental action. In a written advertisement, the nature of the governmental action shall be set forth in a print size equal to the descriptive word used.

(g) Advertises in bad faith an item for sale that the principal or public automobile auctioneer~~, auction firm or gallery~~ does not intend to offer for sale at the auction being advertised.

(3) Advertising for a sale at which some items will be auctioned with reserve and some items will be auctioned without reserve shall clearly and conspicuously indicate this fact to the public. In written advertisements for such a sale, the font size, style and case of the type used in publicizing the part of the sale ~~is~~ to be held without reserve shall not differ from the font size, style and case used to publicize the part of the sale to be held with reserve.

(4) Any advertising or advertisement purporting or suggesting that an auction sale is being held in conjunction with or as a result of a bankruptcy proceeding, or that items to be sold at auction were previously purchased in connection with a bankruptcy proceeding, shall contain the bankruptcy court case number assigned by the court of jurisdiction for such proceeding.

(5) A~~n~~ principal or public automobile auctioneer~~, auction firm or gallery~~ shall not permit ~~its~~ his or her name or license number to appear on any advertisement not in compliance with Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

Authority: *T.C.A. §§ 62-19-106 and 62-19-118(c)(2).*

Rule 0160-01-.21 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.21 shall read:

0160-01-.21 DISCLOSURE OF BUYER'S PREMIUM.

~~(1)~~ A~~n~~ principal or public automobile auctioneer~~, auction firm or gallery~~ shall disclose the existence and amount of any "buyer's premium," commission, or fee to be charged to buyers at an auction sale. Such disclosure shall be made in all advertising and orally announced immediately prior to the start of an auction.

Authority: *T.C.A. §§ 62-19-106 and 62-19-118(c)(2).*

Rule 0160-01-.22 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.22 shall read:

0160-01-.22 LATE RENEWAL OF LICENSE.

(1) A licensee applying to renew a license after the date of expiration, but less than two (2) months ~~or less~~ after the expiration date thereof, shall pay, in addition to any fees required for renewal and satisfaction of any outstanding continuing education requirements, a penalty of fifty dollars ($50.00).

(2) A licensee applying to renew a license more than two (2) months after the expiration date thereof, but less than six months, shall ~~reapply~~ submit an application for licensure, satisfy any outstanding continuing education requirements, and pay a penalty of one hundred and fifty dollars ($150.00).

(3) A licensee applying to renew a license six months or more after the expiration date thereof, but less than ~~two (2)~~ one (1) year~~s~~, shall ~~reapply~~ submit an application for licensure, satisfy any outstanding continuing education requirements and pay a penalty of two hundred dollars ($200.00).

(4) Upon written submission of good cause shown, the Commission may by a majority vote waive any or all of the penalties and requirements in paragraphs (1)-(3) of this rule, including but not limited to ~~reexamination and~~ additional education requirements~~;~~, or in lieu thereof impose such other reasonable conditions or requirements as it deems appropriate.

(5) A licensee delinquent in the renewal of a license for ~~two (2)~~ one (1) years or more shall reapply for licensure and satisfy all requirements for obtaining such license, including but not limited to re-examination and re-application.

Authority: *T.C.A. §§ 62-19-106 and 62-19-111.*

Rule 0160-01-.23 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.23 shall read:

0160-01-.23 RETIREMENT OF LICENSE.

(1) Upon written request accompanied by the license certificate, pocket card and the appropriate fee as set forth in Rule 0160-01-.14 of these rules, an auctioneer or ~~apprentice~~ affiliate auctioneer may retire such auctioneer's or ~~apprentice~~ affiliate auctioneer's license.

(2) Only a license that is current and in good standing with the Commission may be retired. For the purposes of T.C.A. § 62-19-112(d) and this rule, "current and in good standing" shall mean the license is valid and unexpired, all applicable fees and any outstanding penalties have been paid by the licensee, the licensee has met all applicable continuing education requirements, and the licensee is not under any current disciplinary sanction.

(3) Expired licenses renewed pursuant to Rule 0160-01-.22 shall be deemed valid and unexpired for the purposes of this rule.

(4) No contribution to the Education and Recovery Account or continuing education shall be required of a licensee whose license is in retirement.

(5) A retired license may be activated upon submission to the Commission of a written application, the payment of the appropriate fees as set forth in Rule 0160-01-.14 and proof that the applicant has obtained at least six (6) hours of continuing education in the two (2) year period immediately preceding the date of application.

Authority: *T.C.A. §§ 62-19-106 and 62-19-112(d).*

Rule 0160-01-.24 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.24 shall read:

0160-01-.24 NOTIFICATION OF CHANGE OF INFORMATION.

~~(1)~~ Within sixty (60) days of occurrence, a licensee shall notify the Commission in writing of any change in information previously submitted by the licensee to the Commission. Such information includes but is not limited to the licensee's business address, auction escrow account data and the employment, termination or resignation of any ~~apprentice~~ affiliate.

~~(2) Any firm must notify the Commission within ten (10) days of the death, resignation, termination or other extended absence of the firm's principal auctioneer. The firm shall have no longer than thirty (30) days from the death, resignation, termination or other extended absence within which to replace the principal auctioneer and must immediately notify the Commission in writing of the auctioneer's replacement.~~

Authority: *T.C.A. §§ 62-19-106 and 62-19-111.*

Rule 0160-01-.25 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.25 shall read:

0160-01-.25 PUBLIC AUTOMOBILE AUCTION AND PUBLIC AUTOMOBILE AUCTIONEER LICENSE.

(1) Any individual desiring a license as a public automobile auctioneer shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, along with satisfactory proof that the applicant has:

(a) Reached at least twenty-one (21) years of age;

(b) Served as an auctioneer for a period of two (2) years; and

(c) Successfully completed, in addition to the education required by T.C.A § 62-19-111(~~a~~b)(2), ~~thirty (30)~~ fifteen (15) hours of more rigorous classroom or online instruction in automobile auctioneering approved by the commission.

(2) An applicant for a public automobile auction license shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, and accompanied by satisfactory proof that:

(a) The public automobile auction has a letter of compliance with local ordinances from the local zoning authority;

(b) The public automobile auction has garage keeper's legal liability insurance in an amount not less than five hundred thousand dollars ($500,000);

(c) The public automobile auction has a surety bond of fifty thousand dollars ($50,000) issued by a licensed bonding company;

(d) The public automobile auction has a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application;

(e) The public automobile auction has a minimum net worth of one hundred thousand dollars ($100,000);

(f) The public automobile auction has a business telephone number ~~land line~~ in the public automobile auction's name;

(g) The public automobile auction has a permanently installed professional business sign with letters which are at least eight (8) inches in height;

(h) The public automobile auction has a current business tax license as required by local law;

(i) The public automobile auction has displayed on its premises a valid motor vehicle dealer license from the Tennessee Motor Vehicle Commission; and

(j) The public automobile auction has displayed on its premises a valid license from the Tennessee Auctioneer Commission.

Authority: *T.C.A. §§ 62-19-106, 62-19-111, and 62-19-128 ~~and Chapter 724 of the Public Acts of 2008, §§ 3, 4, and 8.~~*

Rule 0160-01-.26 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.26 shall read:

0160-01-.26 ESCROW ACCOUNT REQUIREMENT.

~~All licensed auction firms and galleries shall maintain an escrow or trustee account for all funds that belong to others coming into possession of the firm or gallery as a result of an auction sale~~.

(1) All principal and public automobile auctioneers shall maintain or have written authorization from a principal or public automobile auctioneer granting access to an escrow or trustee account for all funds that belong to others coming into the auctioneer's possession as a result of an auction sale.

(2) All principal or public automobile auctioneers shall be responsible for all funds deposited into an escrow or trustee account.

Authority: *T.C.A. §§ 62-19-106 and 62-19-112(b)(4).*

Rule 0160-01-.27 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.27 shall read:

0160-01-.27 LIVESTOCK AUCTION SALES.

(1) Pursuant to T.C.A. § 62-19-103(8), the provisions of title 62, chapter 19 do not apply to any livestock auction sale regulated by the United States Department of Agriculture Packers & Stockyards Administration, if the sale uses:

(a) The shipper's proceeds account required by federal regulations; and

(b) A ~~Tennessee~~ principal or public automobile auctioneer licensed ~~auctioneer~~ under T.C.A. §§ 62-19-101 et seq. and the rules promulgated thereunder.

(2) Any operator of a livestock auction sale that is not registered with and regulated by the Packers & Stockyards Administration shall not qualify for ~~the firm or gallery~~ license exemption under T.C.A. § 62-19-103(8) and must be appropriately licensed.

(3) Any person acting ~~as an auction firm or gallery~~ outside of a livestock auction regulated by the Packers & Stockyards Administration shall ~~hold a Tennessee auction firm or gallery~~ be a licensed principal or public automobile auctioneer and is subject to all statutes and rules of the Tennessee Auctioneer Commission notwithstanding such person's registration with the Packers & Stockyards Administration.

(4) Nothing in this rule shall be construed as exempting any person acting as or advertising or representing to be an auctioneer or ~~apprentice~~ affiliate auctioneer from the licensure requirements of T.C.A. § 62-19-102.

Authority: *T.C.A. §§ 62-19-102, 62-19-103, and 62-19-106.*

Chapter 0160-03
Continuing Education
Amendments

Rule 0160-03-.01 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-03-.01 shall read:

0160-03-.01 DEFINITIONS

~~(1)~~ As used in this chapter, unless the context otherwise requires, the following definitions~~,~~ are applicable:

~~(a)~~(1) "Commission" shall mean the Tennessee Auctioneer Commission.

~~(b)~~(2) "License" shall mean a license issued by the Tennessee Auctioneer Commission in accordance with T.C.A. §62-19-111.

~~(c)~~(3) "Licensee" shall mean any principal auctioneer, ~~apprentice~~ affiliate auctioneer, or public automobile auctioneer ~~or auction firm~~ licensed in accordance with T.C.A. § 62-19-111. As used in this chapter, this definition does not include bid caller auctioneers.

~~(d)~~(4) "Personal identification number~~,~~" shall mean the number assigned to a continuing education program approved by the Commission.

Authority: *T.C.A. §§ 62-19-106(b), 62-19-106(e), 62-19-~~4~~ 111, and 62-19-112(b)(7)~~, and Public Acts of 1997 Chapter 91, §5~~.*

Rule 0160-03-.03 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.03 shall read:

0160-03-.03 BASIC REQUIREMENTS

(1) All ~~licensees including auctioneer~~ licensees~~,~~ ~~apprentice auctioneer licensees~~, ~~gallery licensees, as well as non-auctioneers~~ ~~firm owners~~, ~~except as otherwise provided by T.C.A. § 62-19-106(e) and these rules,~~ must obtain six (6) hours of continuing education per renewal cycle in order to renew a license~~, except as provided for in T.C.A. §62-19-106(e)(2)~~.

(2) A licensee attending a continuing education program shall provide the licensee's name and license number~~(s)~~ to the ~~sponsor~~ education provider in writing on the ~~sponsor~~ education provider's registration form for any Commission-approved continuing education program. If the licensee fails to follow the aforementioned requirement, the licensee shall not receive credit for attending the program from the Commission. Licensees shall also personally maintain proof of completion of each continuing education course for two (2) renewal cycles.

(3) A licensee who attends any continuing education program or engages in other continuing education activity which has not been approved by the Commission shall not be awarded credit by the Commission towards the continuing education requirement.

~~(4) A licensed auctioneer or apprentice affiliate auctioneer who also is the holder of a firm license or gallery license need only obtain the number of hours of continuing education for the renewal of one (1) license in order for the Commission to renew both the auctioneer or apprentice affiliate auctioneer license and the firm license or gallery license.~~

~~(5) Non-auctioneer gallery and non-auctioneer firm owners must obtain six (6) hours of continuing education per renewal cycle in order to renew their license, as set forth in Rule 0160-3-.03(1), except as provided for in T.C.A. § 62-19-106(e)(2).~~

Authority: *T.C.A. §62-19-106(b) and (e).*

Chapter 0160-01
General Provisions
Repeal

Rule 0160-01-.01 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 0160-01-.01 shall read:

0160-01-.16 ~~NON-AUCTIONEER OWNED FIRMS.~~ **REPEALED.**

~~(1) A non-auctioneer owned firm is an auction firm which is not owned in any part by a person who holds a Tennessee auctioneer's license.~~

~~(2) Every application by a business entity, including a limited liability company, corporation or partnership not principally engaged in the auction business, for an auction firm license or license renewal shall designate as the applicant a natural person who is an employee, owner, shareholder, partner, or member of the entity and meets the applicable requirements of T.C.A. § 62-19-111. The designated applicant shall be the individual responsible for the firm's license.~~

~~(3) A non-auctioneer owned firm must also designate in its auction firm license application one (1) licensed auctioneer who shall serve as the firm's principal auctioneer. The principal auctioneer shall attend and, along with the firm, shall accept responsibility for all auctions conducted by the firm.~~

~~(4) Any non-auctioneer owned firm must notify the Commission within ten (10) days of the death, resignation, termination or other extended absence of the firm's principal auctioneer. The firm shall have no longer than thirty (30) days from the death, resignation, termination or other extended absence within which to replace the principal auctioneer and must immediately notify the Commission in writing of the auctioneer's replacement. The firm shall not conduct any auctions until the Commission has received its designation of a new principal auctioneer.~~

~~***Authority:*** *T.C.A. §§ 62-19-102, 62-19-106, and 62-19-111.*~~

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
John Thorpe	X				
Jeff Morris	X				
Randy Lowe	X				
Kimball Sterling	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Auctioneer Commission on February 24, 2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: November 6, 2019

Rulemaking Hearing(s) Conducted on: (add more dates). February 24, 2020

Date: April 3, 2020

Signature: Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

Agency/Board/Commission: Tennessee Auctioneer Commission

Rule Chapter Number (s): 0160-01 Regulations of Auctioneers
0160-03 Continuing Education

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

4/8/2020
Date

Department of State Use Only

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SECRETARY OF STATE
PUBLICATIONS

Filed with the Department of State on: 4/13/2020

Effective on: 7/12/2020

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Comment 1: Please accept the following comments regarding the proposed revised regulations for consideration by the Commission on Monday, February 24, 2020.

Nashville Auction School fully supports moving the proposed rules forward to avoid any further delay in having rules in place; however, we would like to be on the record for voicing our concern about the wording of two specific proposed rules. It is our opinion that the spirit and intent of these rules is correct; however, the language is not entirely clear to the intent. After reviewing with legal counsel, Ms. Anna Matlock, we are comfortable with the department's understanding and enforcement of these rules, as written.

Rule 0160-01-.20 Advertising Guidelines.
The language of this rule implies that a bid caller auctioneer may advertise an auction; however, because the law specifically limits the bid caller license, we understand this rule does not authorize the bid caller auctioneer to take responsibility for the conduct or advertising of an auction; and we will instruct our students accordingly.

Rule 0160-01-.26 Escrow Account Requirement.
The language of this rule may create confusion for auctioneers who are working under a company that holds an escrow or trustee account for auction funds generated from the company's auction contracts.

It is our understanding that all principal and/or public automobile auctioneers that are acting as sole proprietors or as the owners of a corporation or LLC are required to hold and maintain an escrow or trustee account.

We also understand and agree with legal counsel for the Commission that principal and/or public automobile auctioneers that are employed or affiliated with an established auction company holding an escrow or trustee account, cannot maintain a separate escrow or trustee account in their name.

We will instruct our students accordingly.

At this time, we are not requesting any change to the proposed rules. We respectfully request our comments on the following rules be added to the official record of this rulemaking hearing.

Response 1: As no changes or amendments of the proposed rules were presented in this comment, the Commission elected to not make a specific comment for this received written comment.

Comment 2: In regard to Rule 0160-01-.26 the issue that I see is that we have now made everyone a principal auctioneer and the rule says all principal auctioneers shall maintain an escrow or trust account. Under previous license structure firms would have multiple auctioneers that hung their licenses at one location. Consequently, those auctioneers would operate under that firm's commission-approved escrow account. There are multiple firm set-ups that will now dissolve that have fifteen (15) to twenty (20) auctioneers underneath them. Are those auctioneers required to have their own escrow account? It is very problematic in the state of Tennessee to get an

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT:	Tennessee Real Estate Appraiser Commission
BOARD:	Regulatory Boards
SUBJECT:	Qualifications for Appraisers / Continuing Education Requirements
STATUTORY AUTHORITY:	Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires that appraisers performing assignments in federally related transactions meet the qualifications set by the Appraisal Qualifications Board of the Appraisal Subcommittee.
EFFECTIVE DATES:	July 22, 2020 through June 30, 2021
FISCAL IMPACT:	There is no foreseeable probable increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule.
STAFF RULE ABSTRACT:	These rulemaking hearing rules allow applicants for state licensed, certified residential, and certified general real estate appraisers to complete certain qualifying education, specifically identified by the Commission via distance education. To accomplish this change, the rules remove the word "classroom" from the current rules as this has previously been interpreted by the Commission to exclude distance education. Additionally, the rules impact continuing education for licensees. The rules allow for no more than one-half (1/2) of real estate appraiser license, certificate, and registered trainee's required continuing education credits to be taken via distance education. Lastly, the rules reduce the supervisory appraiser course from seven (7) hours to four (4) hours, and allow this course to be taken via distance education.

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

No public comments were made at the rulemaking hearing. However, the Commission did receive the below written comments submitted in advance.

Comment 1: First, it will make it challenging for industry professionals to meet the continuing education requirements to maintain their license. For working professionals, distance education allows for flexible scheduling for those with irregular work schedules or family responsibilities. Professionals will no longer be able to complete their continuing education requirements on their own schedule.

Second, distance education allows for students to complete their education at their own pace, without waiting for a slower paced classroom or rushed ahead before they meet learning objectives. In addition, distance education is easily accessible for those with restrict mobility and the flexibility to study in a convenient location (with an internet connection).

As a result of the proposed rule, students will be limited in their ability to complete their continuing education if they have a restricted schedule and the number of licensees able to maintain their license, could decline. In addition, education providers could be forced to increase prices for distance education, due to potential sales being cut in half.

Response 1: Commissioner Garrison commented that it appears this public comment is referring to continuing education requirements, Commissioner Garrison further commented that these proposed rule changes do not impact continuing education. Furthermore, the submitted comment did not present any proposed amendments or changes to the rule.

Comment 2: I am sending this letter to voice support for the changed proposed and I support distance education as well defined lower supervisory class hours. To find in classroom coursework that is both relevant and not repetitive is challenging as best in this particular market and being able to expand into distance education opens doors for more formal and needed courses that are relevant for the appraiser to complete.

Response 2: As no changes or amendments of the proposed rules were presented in this comment, the Commission elected to not make a specific comment for this received written public comment.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rule would positively benefit small businesses in the real estate appraiser industry by allowing current licensees and future licensees the opportunity to take certain courses via distance learning. Allowing distance education will lessen financial costs associated for licensure in the industry in both the initial application process and during the licensure period. However, it is difficult to determine the precise number of small businesses that would be affected by the proposed amendment because the Tennessee Real Estate Appraiser Commission does not directly regulate those businesses. Rather, the Commission governs the 2,309 licensees who work for those businesses. Additionally, pursuant to T.C.A. §§ 62-39-303, 62-39-312, and, 62-39-113, applicants must meet the current requirements for licensure as set forth by the Appraisal Qualifications Board ("AQB").

The Commission knows of no other less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rules. The proposed amendment would require minimal, if any, costs for compliance. Numerous states have adopted these continuing education and USPAP standards. Thus, the proposed amendments would make Tennessee rules consistent with the federal standards and rules in other USPAP states. The Commission does not foresee any impact to consumers with the promulgation of the proposed rules. An exemption for small businesses would not be beneficial.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Tennessee Real Estate Appraiser Commission foresees no impact on any local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rules allow applicants for state licensed, certified residential, and certified general real estate appraisers to complete certain qualifying education, specifically identified by the Commission via distance education. To accomplish this change, the rules remove the word "classroom" from the current rules as this has previously been interpreted by the Commission to exclude distance education. Additionally, the rules impact continuing education for licensees. The rules allow for no more than one-half (1/2) of real estate appraiser license, certificate, and registered trainee's required continuing education credits to be taken via distance education. Lastly, the rules reduce the supervisory appraiser course from seven (7) hours to four (4) hours, and allow this course to be taken via distance education.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires that appraisers performing assignments in federally related transactions meet the qualifications set by the Appraisal Qualifications Board of the Appraisal Subcommittee.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule would affect current licensees and future applicants. We believe that all affected would approve of the adoption of these rules because the proposed rules are beneficial to all industry members.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial rulings that directly relate to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There is no foreseeable probable increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Anna D. Matlock 500 James Robertson Parkway, Nashville, TN 37243 (615) 253-0070 Anna.Matlock@tn.gov Jennifer Peck 500 James Robertson Parkway, Nashville, TN 37243 (615) 253-3240 Jennifer.Peck@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.

Rules of Tennessee Real Estate Appraisers Commission
Chapter 1255-01 General Provisions; 1255-04 Continuing Education
Rule 1255-01-.05, .07, .08 & .12; Rule 1255-04-.01

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Sequence Number:	04-28-20
Rule ID(s):	9346-9347
File Date:	4/23/2020
Effective Date:	7/22/2020

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Real Estate Appraiser Commission
Division:	Regulatory Boards
Contact Person:	Anna D. Matlock
Address:	500 James Robertson Parkway, Davy Crockett Tower, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-3072
Email:	Anna.Matlock@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1255-01	General Provisions
Rule Number	**Rule Title**
1255-01-.05	Qualifications for State Licensed Appraiser
1255-01-.07	Qualifications for State Certified Residential Appraiser
1255-01-.08	Qualifications for General Certification
1255-01-.12	Registered Trainee
Chapter Number	**Chapter Title**
1255-04	Continuing Education
Rule Number	**Rule Title**
1255-04-.01	Continuing Education Requirements

Redline – 2019 Rulemaking Hearing Rules
Tennessee Real Estate Appraiser Commission

Chapter 1255-01
General Provisions
Amendments

Rule 1255-01-.05(1)(b) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.05(1)(b) shall read:

(b) Appraisal Education. An applicant shall satisfy the following appraisal education requirements as a prerequisite to sit for the state licensed appraiser examination:

1. One hundred fifty (150) ~~classroom~~ hours of courses in subjects related to real estate appraisal (hereinafter, "qualifying education requirement") which shall include:

(i) Successful completion of fifteen (15) hours of the National Uniform Standards of Professional Appraisal Practice Course or its equivalent. Equivalency shall be determined by the Appraiser Qualifications Board Course Approval Program or by an alternate method established by the Appraiser Qualifications Board;

(I) The Commission shall grant an applicant credit toward the qualifying education requirement for the National Uniform Standards of Professional Appraisal Practice Course only when at least one of the course ~~instructions~~ instructors is an AQB Certified USPAP Instructor who is also a state certified residential real estate appraiser or state certified general real estate appraiser.

(ii) Successful completion of a thirty (30) hour course in Appraisal Principles;

(iii) Successful completion of a thirty (30) hour course in Appraisal Practice or Procedures;

(iv) Successful completion of a fifteen (15) hour course in Residential Market Analysis and Highest and Best Use;

(v) Successful completion of a fifteen (15) hour course in Residential Appraiser Site Valuation and Cost Approach;

(vi) Successful completion of a thirty (30) hour course in Sales Comparison and Income Approaches; and

(vii) Successful completion of a fifteen (15) hour course in Residential Report Writing and Case Studies.

2. Courses listed in (b)(1)(i),(ii), and (iii) may be taken via distance education.

~~2.~~ 3. A course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

~~3.~~ 4. The Commission may grant credit toward the qualifying education requirement only ~~where~~ if the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

~~4.~~ 5. An applicant may obtain credit for the qualifying education requirement from any of the following educational providers:

(i) Colleges or universities;

(ii) Community or junior colleges;

(iii) Real estate appraisal or real estate related organizations;

(iv) State or federal agencies or commissions;

(v) Proprietary schools;

(vi) Other providers approved by the Commission; and

(vii) The Appraisal Foundation or its Boards.

~~5.~~ 6. An applicant may refer to Chapter 1255-02 Evaluation of Education for further delineation of qualifying educational requirements.

~~6. The Commission may grant credit toward the qualifying education requirement only where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.~~

7. In the event of a denial, an applicant for a license may file a written request for reconsideration with the Commission. The Commission shall consider the request for reconsideration and reevaluate the applicant's education. In the event that the application is denied after reconsideration, the denial shall not create a contested case as defined by the Uniform Administrative Procedures Act, T.C.A. § 4-5-102. The applicant may reapply for a license.

Authority: T.C.A. §§ 62-39-203, 62-39-204, 62-39-303, 62-39-329, 62-39-333, and 62-39-337.

Rule 1255-01-.07(1)(b) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.07(1)(b) shall read:

(b) Appraisal Education. An applicant shall satisfy the following appraisal education requirements as a prerequisite to sit for the state certified residential real estate appraiser examination:

1. Two hundred (200) ~~classroom~~ hours of courses, in subjects related to real estate appraisal (hereinafter "qualifying education requirement")~~.~~, which shall include ~~These modules shall include~~:

(i) Successful completion of fifteen (15) hours of the National Uniform Standards of Professional Appraisal Practice Course or its equivalent. Equivalency shall be determined through the Appraiser Qualifications Board Course Approval Program or by an alternate method established by the Appraiser Qualifications Board;

(I) The Commission shall grant an applicant credit toward the qualifying education requirement for the National Uniform Standards of Professional Appraisal Practice Course only when at least one of the course instructors is an AQB Certified USPAP Instructor who is also a state certified residential real estate appraiser or state certified general real estate appraiser.

(ii) Successful completion of a thirty (30) hour course in Appraisal Principles;

(iii) Successful completion of a thirty (30) hour course in Appraisal Practice or Procedures;

(iv) Successful completion of a fifteen (15) hour course in Residential Market Analysis and Highest and Best Use;

(v) Successful completion of a fifteen (15) hour course in Residential Appraiser Site Valuation and Cost Approach;

(vi) Successful completion of a thirty (30) hour course in Sales Comparison and Income Approaches;

(vii) Successful completion of a fifteen (15) hour course in Residential Report Writing and Case Studies;

(viii) Successful completion of a fifteen (15) hour course in Statistics, Modeling and Finance;

(ix) Successful completion of a fifteen (15) hour course in Advanced Residential Applications and Case Studies; and

(x) Successful completion of twenty (20) hours of appraisal subject matter electives~~.~~, which may include any hours over the minimum listed in (i) through (x). ~~These may include hours over minimum shown above in other modules.~~

2. Courses listed in (b)(1)(i),(ii), and (iii) may be taken via distance education.

~~2.~~ 3. A course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

~~3.~~ 4. The Commission may grant credit toward the qualifying education requirement only ~~where~~ if the length of the educational offering is at least fifteen (15) hours and an applicant successfully completes an examination pertinent to that educational offering.

5. The qualifying education requirement may include the one hundred fifty (150) hour qualifying education requirement for the state licensed real estate appraiser classification.

~~4.~~ 6. An applicant may obtain credit for the qualifying education requirement from any of the following:

(i) Colleges or universities;

(ii) Community or junior colleges;

(iii) Real estate appraisal or real estate related organizations;

(iv) State or federal agencies or commissions;

(v) Proprietary schools;

(vi) Other providers approved by the Commission; and

(vii) The Appraisal Foundation or its Boards.

~~5. The qualifying education requirement may include the one hundred fifty (150) hour qualifying education requirement for the state licensed real estate appraiser classification.~~

~~6.~~ 7. An applicant may refer to Chapter 1255-02 Evaluation of Education for further delineation of ~~the~~ qualifying education requirements.

~~7.~~8. In the event of a denial, an applicant for certification may file a written request for reconsideration with the Commission~~, appealing the Commission's evaluation of the applicant's education~~. The Commission shall consider the ~~filed written~~ request for reconsideration and reevaluate the applicant's education. In the event that the application is denied after reconsideration, the denial shall not create a contested case as defined by the Uniform Administrative Procedures Act, T.C.A. § 4-5-102. The applicant may reapply for a certificate. ~~In the event that the applicant's application for certification is denied after the education reevaluation, then the denial shall not create a contested case proceeding (as defined by the Tennessee Administrative Procedures Act, T.C.A., Title 4, Chapter 5) and the applicant may then reapply for certification.~~

Authority: T.C.A. §§ 62-39-203, 62-39-204, 62-39-311, 62-39-312, 62-39-313, 62-39-329, 62-39-333, and 62-39-337.

Rule 1255-01-.08(1)(b) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.08(1)(b) shall read:

(b) Appraisal Education. An applicant shall satisfy the following appraisal education requirements as a prerequisite to sit for the state certified general real estate appraiser examination:

1. Three hundred (300) ~~classroom~~ hours of courses, in subjects related to real estate appraisal (hereinafter "qualifying education requirement"), which~~. These modules~~ shall include ~~(hereinafter "qualifying education requirement")~~:

(i) Successful completion of fifteen (15) hours of the National Uniform Standards of Professional Appraisal Practice Course or its equivalent. Equivalency shall be determined through the Appraiser Qualifications Board Course Approval Program or by an alternate method established by the Appraiser Qualifications Board; ~~Fifteen (15) hours of the three hundred (300) hours must include the successful completion of the National Uniform Standards of Professional Appraisal Practice Course or its equivalent. Equivalency shall be determined through the Appraiser Qualifications Board Course Approval Program or by an alternate method established by the Appraiser Qualifications Board;~~

(I) The Commission shall grant an applicant credit toward the qualifying education requirement for the National Uniform Standards of Professional Appraisal Practice Course only when at least one of the course instructors is an AQB Certified USPAP Instructor who is also a state certified residential real estate appraiser or state certified general real estate appraiser.

(ii) Successful completion of a thirty (30) hour course in Appraisal Principles;

(iii) Successful completion of a thirty (30) hour course in Appraisal Practice or Procedures;

(iv) Successful completion of a thirty (30) hour course in General Appraiser Market Analysis and Highest and Best Use;

(v) Successful completion of a fifteen (15) hour course in Statistics, Modeling and Finance;

(vi) Successful completion of a thirty (30) hour course in General Appraiser Sales Comparison Approach;

(vii) Successful completion of a thirty (30) hour course in General Appraiser Site Valuation and Cost Approach;

(viii) Successful completion of a sixty (60) hour course in General Appraiser Income Approach;

(ix) Successful completion of a thirty (30) hour course in General Appraiser Report Writing and Case Studies; and

(x) Successful completion of thirty (30) hours of appraisal subject matter electives which may include any hours over the minimum listed above in (i) through (x). ~~These may include hours over minimum shown above in other modules.~~

2. Courses listed in (b)(1)(i),(ii), and (iii) may be taken via distance education.

~~2.~~3. A course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

~~3. An applicant's qualifying education requirement may include the one hundred fifty (150) classroom hour requirement for the licensed real estate appraiser classification or the two hundred (200) hour requirement for the certified residential real estate appraiser classification.~~

~~4.~~ 4. The Commission may grant an applicant credit toward the qualifying education requirement only ~~where~~ if the length of the educational offering is at least fifteen (15) hours and the applicant successfully completes an examination pertinent to that educational offering.

5. An applicant's qualifying education requirement may include the one hundred fifty (150) classroom hour requirement for the licensed real estate appraiser classification or the two hundred (200) hour requirement for the certified residential real estate appraiser classification.

~~5.~~ 6. An applicant may obtain credit for the qualifying education requirement from the following:

(i) Colleges or universities;

(ii) Community or junior colleges;

(iii) Real estate appraisal or real estate related organizations;

(iv) State or federal agencies or commissions;

(v) Proprietary schools;

(vi) Other providers approved by the Commission; and

(vii) The Appraisal Foundation or its Boards.

~~6.~~ 7. An applicant may ~~should~~ refer to Chapter 1255-02 Evaluation of Education for further delineation of qualifying educational requirements.

~~7.~~ 8. In the event of a denial, an applicant for certification may file a written request for reconsideration with the Commission. The Commission shall consider the request for reconsideration and reevaluate the applicant's education. In the event that the applicant is denied after reconsideration, the denial shall not create a contest case as defined by the Uniform Administrative Procedures Act, T.C.A. § 4-5-102. The applicant may reapply

for a certificate. ~~In the event that an applicant is denied, then an applicant for certification may file a written request for reconsideration with the Commission, appealing the Commission's evaluation of his or her education. The Commission shall consider the filed written request for reconsideration and reevaluate the applicant's education. In the event that the applicant's application for certification is denied after the education reevaluation, then the denial shall not create a contested case proceeding (as defined by the Tennessee Administrative Procedures Act, T.C.A., Title 4, Chapter 5) and the applicant may then reapply for certification.~~

Authority: T.C.A. §§62-39-203, 62-39-204, 62-39-305, 62-39-311, 62-39-312, 62-39-313, ~~and~~ 62-39-314, 62-39-329, 62-39-333, and 62-39-337.

Rule 1255-01-.12(1) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.12(1) shall read:

(1) Application. An applicant for registration as a real estate appraiser trainee shall successfully complete the following requirements prior to obtaining registration:

(a) Obtain and complete the required application form from the Commission.

(b) Provide proof on the application form showing that he or she has obtained a high school diploma or its equivalent.

(c) Provide on the application form the name and certificate number of the certified real estate appraiser under whose direct supervision the applicant will serve.

(d) Provide the business address of his or her ~~supervising~~ supervisory appraiser and use that address as his or her business address. If an applicant has more than one (1) ~~supervising~~ supervisory appraiser, then the applicant shall use the business address of at least one (1) of his or her ~~supervising~~ supervisory appraisers.

(e) Complete ~~an approved thirty~~ (30)-hour course in Appraisal Principles, ~~an approved~~ thirty (30)-hour course in Practices and Procedures, and the fifteen (15)-hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent as determined through the AQB. These courses may be taken via distance education.

(f) ~~On or after January 1, 2015, r~~Registered trainees shall be required to complete a ~~seven (7)~~ four (4) hour course ~~that, at a minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to~~ on the requirements and responsibilities of ~~S~~supervisory ~~A~~appraisers and ~~T~~trainee ~~A~~appraisers. The course ~~is to~~ shall be completed by the registered trainee prior to application.

(g) An applicant should refer to Chapter 1255-02 Evaluation of Education for further delineation of qualifying education requirements.

~~(g)~~(h) Submit with the application a nonrefundable application and registration fee of one hundred twenty-five dollars ($125.00).

Authority: T.C.A. §§ ~~62-39-105,~~ 62-39-203, 62-39-204, 62-39-301, 62-39-303, 62-39-304, 62-39-321, and ~~62-39-317, 62-39-324,~~ 62-39-333~~, and 62-39-337~~.

Rule 1255-01-.12(7) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.12(7) shall read:

(7) Continuing Education.

(a) Any person in the classification of registered trainee shall be required to obtain a minimum of twenty-eight (28) ~~classroom~~ course hours of instruction in courses, seminars, workshops, or conferences approved by the Commission prior to each renewal period (hereinafter, "continuing education").

(b) As part of a registered trainee's continuing education, a registered trainee shall complete the seven (7) hour National Uniform Standards of Professional Appraisal Practice Course at least once every two (2) years as defined and required by rule 1255-04-.01(2).

(c) A ~~classroom~~ course hour is defined as fifty (50) minutes of actual instruction for each sixty (60) minute segment.

(d) The Commission may grant continuing education credit only ~~where~~ if the length of the educational offering is at least two (2) hours.

(e) An applicant may obtain continuing education credit from the following:

1. Colleges or universities;

2. Community or junior colleges;

3. Real estate appraisal or real estate related organizations;

4. State or federal agencies or commissions;

5. Proprietary schools; and

6. Other providers approved by the Commission.

(f) The Commission may grant continuing education credit for educational offerings which are consistent with the purpose of continuing education stated in subparagraph (g) below and cover real estate appraisal topics such as the following:

1. Ad valorem taxation;

2. Arbitration;

3. Business courses related to practice of real estate appraisal;

4. Construction estimating;

5. Ethics and standards of professional practice;

6. Land use planning, zoning and taxation;

7. Management, leasing, brokerage and timesharing;

8. Property development;

9. Real estate appraisal (valuations/evaluations);

10. Real estate law;

11. Real estate litigation;

12. Real estate financing and investment;

13. Real estate appraisal related computer applications;

14. Real estate securities and syndication; and

15. Real property exchange.

(g) The purpose of continuing education is to ensure that a registered trainee participates in a program that maintains and increases his or her skill, knowledge, and competency in real estate appraisals.

Rule 1255-01-.12(7) is amended by adding a new subparagraph (h), which shall read:

(h) A registered trainee may complete no more than one-half (1/2) of the individual's required education credits via distance education.

Authority: T.C.A. §§ ~~62-39-105,~~ 62-39-203, 62-39-204, 62-39-301, 62-39-303, 62-39-304, 62-39-321, and ~~62-39-317, 62-39-324,~~ 62-39-333~~, and 62-39-337~~.

Rule 1255-01-.12(10)(g) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01-.12(10)(g) shall read:

(g) ~~On or after January 1, 2015, s~~Supervisory appraisers shall be required to complete a ~~seven (7)~~ four (4) hour course~~ that, at a minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to the requirements and~~ on responsibilities of supervisory appraisers and trainee appraisers. The course ~~is to~~ shall be completed by the supervisory appraiser prior to supervising a trainee appraiser. This course may be completed via distance education.

Authority: T.C.A. §§ ~~62-39-105,~~ 62-39-203, 62-39-204, 62-39-301, 62-39-303, 62-39-304, 62-39-321, and ~~62-39-317, 62-39-324,~~ 62-39-333~~, and 62-39-337~~.

Chapter 1255-04
Continuing Education
Amendments

Rule 1255-04-.01(1) is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-04-.01(1) shall read:

(1) As a prerequisite to renewal of a real estate appraiser license or certificate, the licensee or certificate holder shall complete at least twenty-eight (28) hours of continuing education courses ~~instruction~~ approved by the Commission during each renewal period, which is every two (2) years (hereinafter "continuing education").

(a) A course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

(b) The Commission will grant credit toward the continuing education requirement only ~~where~~ if the length of the educational offering is at least two (2) hours.

(c) A state licensed, state certified residential or a state certified general real estate appraiser may obtain credit for the continuing education requirement from the following:

1. ~~c~~Colleges or universities;

2. ~~c~~Community or junior colleges;

3. ~~r~~Real estate appraisal or real estate related organizations;

4. ~~s~~State or federal agencies or commissions;

5. ~~p~~Proprietary schools;

6. ~~o~~Other providers approved by the Commission; and

7. The Appraisal Foundation or its Boards.

(d) The Commission may grant credit for educational offerings ~~which cover real estate appraisal related topics, such as the following,~~ which are consistent with the purpose of continuing education stated in paragraph (6) and cover real estate appraisal topics such as:

1. ~~a~~Ad valorem taxation;

2. ~~a~~Arbitration, dispute resolution;

3. ~~c~~Courses related to practice of real estate appraisal or consulting;

4. ~~d~~Development cost estimating;

5. ~~e~~Ethics and standards of professional practice, USPAP;

6. ~~l~~Land use planning, zoning, taxation;

7. ~~m~~Management, leasing, timesharing;

8. ~~p~~Property development, partial interests;

9. ~~r~~Real estate law, easements, and legal interests;

10. ~~r~~Real estate litigation, damages, condemnation;

11. ~~r~~Real estate financing and investment;

12. ~~r~~Real estate appraisal related computer applications;

13. ~~r~~Real estate securities and syndication;

14. ~~d~~Developing opinions of real property value in appraisals that also include personal property and/or business value;

15. ~~s~~Seller concessions and impact on value; and/or

16. ~~e~~Energy efficient items and "green building" appraisals.

Authority: T.C.A. §§ 62-39-203, 62-39-204, 62-39-206, 62-39-306, 62-39-325, and 62-39-333.

Rule 1255-04-.01 is amended by adding a new paragraph (8), which shall read:

(8) A licensee or certificate holder may complete no more than one-half (1/2) of the individual's required continuing education hours via distance education.

Authority: T.C.A. §§ 62-39-203, 62-39-204, 62-39-206, 62-39-306, 62-39-315, 62-39-325, 62-39-329, and 62-39-333.

Rules of Tennessee Real Estate Appraisers Commission
Chapter 1255-01 General Provisions; 1255-04 Continuing Education
Rule 1255-01-.05, .07, .08 & .12; Rule 1255-04-.01
* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Randall Thomas	X				
Rex Garrison	X				
Warren F. Mackara	X				
Jason R. Bennett	X				
Rosemarie Johnson				X	
Jim Atwood	X				
Brett Mansfield	X				
Michelle Alexander	X				
Vacant					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Real Estate Appraiser Commission on January 14, 2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: July 19, 2019

Rulemaking Hearing(s) Conducted on: (add more dates). October 21, 2019

Date: November 26, 2019

Signature: Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

ANN JONES STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Subscribed and sworn to before me on: November 26, 2019

Notary Public Signature: Ann Jones

My commission expires on: July 6, 2020

Agency/Board/Commission: Tennessee Real Estate Appraiser Commission

Rule Chapter Number (s):
1255-01-.05 Qualifications for State Licensed Appraiser
1255-01-.07 Qualifications for State Certified Residential Appraiser
1255-01-.08 Qualifications for General Certification
1255-01-.12 Registered Trainee
1255-04-.01 Continuing Education Requirements

Rules of Tennessee Real Estate Appraisers Commission
Chapter 1255-01 General Provisions; 1255-04 Continuing Education
Rule 1255-01-.05, .07, .08 & .12; Rule 1255-04-.01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

4/22/2020
Date

Department of State Use Only

Filed with the Department of State on: 4/23/2020

Effective on: 7/22/2020

Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY:	Real Estate Appraiser Commission
DIVISION:	Regulatory Boards
SUBJECT:	Standards of Professional Practice
STATUTORY AUTHORITY:	Title XI of the Financial Institutions Reform, Recovery, and Enforcement of 1989
EFFECTIVE DATES:	July 8, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The proposed rules amend the section for the "Uniform Standards of Professional Appraisal Practice" ("USPAP") in pertinent part regarding USPAP instructors and instructor recertification. Specifically, the rule removes the former course title, hour amount for the USPAP instructor recertification course, and now allows for instructors of the USPAP Update course to earn continuing education credit for teaching the course. Since initial promulgation of the rule, the recertification course's hour amount has decreased and title has changed . This is a change that is required of the Commission per the Appraisal Subcommittee ("ASC"). Additionally, the rules remove the requirement that failure to take the USPAP update course will result in the imposition of civil penalties up to one thousand dollars ($1,000.00) as this provision of the rule has been interpreted by the Office of the Attorney General to not be authorized by Tenn. Code Ann. § 62-39-326.

(

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-05 Standards of Professional Practice
Rule 1255-05-.01

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rule would positively benefit small businesses in the real estate appraiser industry, by further ensuring that instructors for the Uniform Standards of Professional Appraisal Practice ("USPAP") are certified and current with the required standards so that all Tennessee real estate appraisers are fully capable and competent to perform real estate appraiser tasks and duties in accordance with USPAP. However, it is difficult to determine the precise number of small businesses that would be affected by the proposed amendment because the Tennessee Real Estate Appraiser Commission does not directly regulate those businesses. Rather, the Commission governs the 2,309 licensees who work for those businesses. Additionally, pursuant to T. C. A. §§ 62-39-303, 62-39-312, and, 62-39-113, applicants must meet the current requirements for licensure as set forth by the Appraisal Qualifications Board ("AQB").

The Commission knows of no other less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rules. The proposed amendment would require minimal, if any, costs for compliance. Numerous states have adopted these USPAP standards. Thus, the proposed amendment would make Tennessee rules consistent with the federal standards and rules in other USPAP states. The Commission does not foresee any impact to consumers with the promulgation of the proposed rules. An exemption for small businesses would not be beneficial.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Tennessee Real Estate Appraiser Commission foresees no impact on any local governments.

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-05 Standards of Professional Practice
Rule 1255-05-.01

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules amend the section for the "Uniform Standards of Professional Appraisal Practice" ("USPAP") in pertinent part regarding USPAP instructors and instructor recertification. Specifically, the rule removes the former course title, hour amount for the USPAP instructor recertification course, and now allows for instructors of the USPAP Update course to earn continuing education credit for teaching the course. Since initial promulgation of the rule, the recertification course's hour amount has decreased and title has changed. This is a change that is required of the Commission per the Appraisal Subcommittee ("ASC"). Additionally, the rules remove the requirement that failure to take the USPAP update course will result in the imposition of civil penalties up to one thousand dollars ($1,000.00) as this provision of the rule has been interpreted by the Office of the Attorney General to not be authorized by Tenn. Code Ann. § 62-39-326.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Title XI of the Financial Institutions Reform, Recovery, and Enforcement of 1989 requires that appraisers performing assignments in federally related transactions meet the qualifications set by the Appraisal Qualifications Board ("AQB") of the Appraisal Subcommittee ("ASC").

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule would affect current licensees and future applicants. We believe that all affected would approve of the adoption of these rules because the proposed rules are beneficial to all industry members.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or any judicial rulings that directly relate to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There is no foreseeable probable increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Anna D. Matlock
500 James Robertson Parkway, Nashville, TN 37243
(615) 253-0070
Anna.Matlock@tn.gov

Jennifer Peck
500 James Robertson Parkway, Nashville, TN 37243
(615) 253-3240
Jennifer.Peck@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-05 Standards of Professional Practice
Rule 1255-05-.01

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	04-17-20
Rule ID(s):	9332
File Date:	4/9/2020
Effective Date:	7/8/2020

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Real Estate Appraiser Commission
Division:	Regulatory Boards
Contact Person:	Anna D. Matlock
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-3072
Email:	Anna.Matlock@tn.gov

Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1255-05	Standards of Professional Practice
Rule Number	**Rule Title**
1255-05-.01	Uniform Standards of Appraisal Practice

2020 Proposed Rules
Tennessee Real Estate Appraiser Commission

Chapter 1255-05
Standards of Professional Practice
Amendments

Rule 1255-05-.01(6) is amended by deleting the text of subsection (6) entirely and substituting instead language so that, as amended, Rule 1255-05-.01 shall read:

(6) Failure to take the seven (7) hour National Uniform Standards of Professional Appraisal Practice Update Course at least once in every period of two (2) calendar years ~~every two (2) years~~ as defined and required by rule 1255-04-.01(2) constitutes grounds for revocation, suspension or restriction of any license or certificate issued by the Commission ~~and/or the imposition of civil penalties of up to one thousand dollars ($1,000.00) per violation, or otherwise disciplinary action in accordance with applicable law and rule, pursuant to Tenn. Code Ann. § 62-39-326~~. Teaching this course ~~in the Uniform Standards of Professional Appraisal Practice~~ will ~~not~~ be considered compliance with this requirement. Taking t~~T~~he ~~seven (7) hour National Instructor Recertification Course for~~ AQB certified Uniform Standards of Professional Appraisal Practice instructor recertification course shall not fulfill this requirement ~~the seven (7) hour continuing education requirement for AQB approved instructors of the National Uniform Standards of Professional Appraisal Practice~~.

Authority: *T.C.A. §§56-1-308, 62-39-203, 62-39-204, 62-39-308, 62-39-326, 62-39-329, and 62-39-333.*

Rule 1255-05-.01(7) is amended by adding an "s" following "Standard" so that, as amended, Rule 1255-05-.01 shall read:

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice constitutes grounds for the revocation, suspension or restriction of any license or certificate issued by the commission and/or imposition of civil penalties pursuant to Tenn. Code. Ann. § 62-39-326.

Authority: *T.C.A. §§56-1-308, 62-39-203, 62-39-204, 62-39-308, 62-39-326, 62-39-329, and 62-39-333.*

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-05 Standards of Professional Practice
Rule 1255-05-.01

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Randall Thomas	X				
Rex Garrison	X				
Michelle Alexander	X				
Warren F. Mackara	X				
Jason R. Bennett	X				
Rosemarie Johnson				X	
Jim Atwood	X				
Brett Mansfield	X				
Vacant					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Real Estate Appraiser Commission on January 13, 2020, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 2/13/2020

Signature: Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

ANN JONES STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Subscribed and sworn to before me on: February 13, 2020

Notary Public Signature: Ann Jones

My commission expires on: July 6, 2020

Agency/Board/Commission: Tennessee Real Estate Appraiser Commission

Rule Chapter Number (s): 1255-05-.01 Uniform Standards of Appraisal Practice

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

3/23/2020
Date

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-05 Standards of Professional Practice
Rule 1255-05-.01

Department of State Use Only

Filed with the Department of State on: 4/9/2020

Effective on: 7/8/2020

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY:	Real Estate Appraiser Commission
DIVISION:	Regulatory Boards
SUBJECT:	General Provisions
STATUTORY AUTHORITY:	Title XI of the Financial Institutions Reform, Recovery, and Enforcement of 1989
EFFECTIVE DATES:	July 12, 2020 through June 30, 2021
FISCAL IMPACT:	None
STAFF RULE ABSTRACT:	The proposed rules amend the section for the supervision of registered trainees. Currently, registered trainees must be accompanied by their supervisory appraisers on all assignments until they have completed 500 hours of acceptable appraisal experience. The proposed rule would allow the registered trainees to perform appraisals on their own if they are determined by their supervisory appraiser to be competent to inspect the property in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP).

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-01 General Provisions
Rule 1255-01-.12

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

It is difficult to determine the precise number of small businesses that would be affected by the proposed amendments because the Tennessee Real Estate Appraiser Commission ("Commission") does not directly regulate those businesses. Indeed, the Commission oversees the individual licensees who work for those businesses. The proposed rule would positively benefit the small businesses in the real estate appraiser industry by further ensuring that registered trainees are fully capable and competent to perform real estate appraiser tasks and duties. The proposed rule would also help the small businesses comply with Tenn. Code Ann. §§ 62-39-113, 62-39-303, and 62-39-312, which require that all applicants must satisfy the licensure requirements as established by the Appraisal Qualifications Board ("AQB"). The Commission is not aware of a less burdensome, less intrusive, or less costly alternative that would accomplish the objectives of the proposed amendments. The proposed rule would impose minimal, if any, costs for compliance, and has been adopted by several other states.

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-01 General Provisions
Rule 1255-01-.12

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

The Tennessee Real Estate Appraiser Commission does not foresee any impact on local governments.

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-01 General Provisions
Rule 1255-01-.12

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rules amend the section for the supervision of registered trainees. Currently, registered trainees must be accompanied by their supervisory appraisers on all assignments until they have completed 500 hours of acceptable appraisal experience. The proposed rule would allow the registered trainees to perform appraisals on their own if they are determined by their supervisory appraiser to be competent to inspect the property in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP).

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Title XI of the Financial Institutions Reform, Recovery, and Enforcement of 1989 requires that appraisers performing assignments in federally related transactions meet the qualifications set by the Appraisal Qualifications Board of the Appraisal Subcommittee.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule would affect current licensees and future applicants. We believe that all affected would approve of the adoption of these rules because the proposed rules are beneficial to all industry members.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions of the Attorney General and Reporter or judicial rulings that directly relate to this rule.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There is no foreseeable impact on state and local government revenues and expenditures resulting from the promulgation of this rule.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Anna D. Matlock, Associate General Counsel for the Tennessee Real Estate Appraiser Commission
Jennifer Peck, Executive Director for the Tennessee Real Estate Appraiser Commission

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Anna D. Matlock
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is no known additional relevant information.

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Nashville, TN 37243
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Sequence Number:	04-18-20
Rule ID(s):	9333
File Date:	4/13/2020
Effective Date:	7/12/2020

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Real Estate Appraiser Commission
Division:	Regulatory Boards
Contact Person:	Anna D. Matlock
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Revision Type (check all that apply):

X Amendment
___ New
___ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
1255-01	General Provisions
Rule Number	**Rule Title**
1255-01-.12	Registered Trainee

2019 Proposed Rules
Tennessee Real Estate Appraiser Commission

Chapter 1255-01
General Provisions
Amendments

Rule 1255-01-.12 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1255-01.-12 shall read:

1255-01-.12 REGISTERED TRAINEE.

(1) Application. An applicant for registration as a real estate appraiser trainee shall successfully complete the following requirements prior to obtaining registration:

(a) Obtain and complete the required application form from the Commission.

(b) Provide proof on the application form showing that he or she has obtained a high school diploma or its equivalent.

(c) Provide on the application form the name and certificate number of the certified real estate appraiser under whose direct supervision the applicant will serve.

(d) Provide the business address of his or her ~~supervising~~ supervisory appraiser and use that address as his or her business address. If an applicant has more than one (1) ~~supervising~~ supervisory appraiser, then the applicant shall use the business address of at least one (1) of his or her ~~supervising~~ supervisory appraisers.

(e) Complete ~~an approved thirty~~ (30)-hour course in Appraisal Principles, ~~an approved~~ thirty (30)-hour course in Practices and Procedures, and the fifteen (15)-hour National Uniform Standards of Professional Appraisal Practice Course, or its equivalent as determined through the AQB. These courses may be taken via distance education.

(f) ~~On or after January 1, 2015, r~~Registered trainees shall be required to complete a ~~seven (7)~~ four (4) hour course ~~that, at a minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to~~ on the requirements and responsibilities of ~~S~~ supervisory ~~A~~appraisers and ~~T~~trainee ~~A~~appraisers. The course ~~is to~~ shall be completed by the registered trainee prior to application.

(g) An applicant should refer to Chapter 1255-02 Evaluation of Education for further delineation of qualifying education requirements.

~~(g)~~(h) Submit with the application a nonrefundable application and registration fee of one hundred twenty-five dollars ($125.00).

(2) Upon receipt of a properly completed application form with the required aforementioned documentation and the required fee, the Commission shall review the application to determine whether to issue the applicant a real estate appraiser trainee registration certificate and number.

(3) Education. Before registration, an applicant for trainee registration shall complete seventy- five (75) hours of courses in subjects related to real estate appraisal, which shall include, but shall not be limited to coverage of the Uniform Standards of Professional Appraisal Practice (hereinafter, "course credit"). An applicant shall complete the required course credit as a prerequisite to applying for registration as a registered trainee. All applicants shall submit evidence of completion of a minimum of an approved thirty (30)-hour course in Appraisal Principles, an approved thirty

(30)-hour course in Practices and Procedures, and the fifteen (15)-hour National Uniform Standards of Professional Appraisal Practice Course. An applicant shall also ensure that his or her course credit complies with the following:

(a) A course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

(b) An applicant may obtain course credit only where the minimum length of the education offering is fifteen (15) hours and the individual successfully completes the examination pertinent to that educational offering.

(c) An applicant may obtain course credit from the following:

1. Colleges or universities;

2. Community or junior colleges;

3. Real estate appraisal or real estate related organizations;

4. Proprietary schools; and

5. Other providers approved by the Commission.

(d) An applicant shall obtain course credit within the five (5)-year period immediately preceding an applicant's submission of his or her application for registration as a registered trainee.

(e) The content for courses shall include, but is not limited to, coverage of the following real estate appraisal related topics:

1. Influences on real estate value;

2. Legal considerations in appraisals;

3. Types of value;

4. Economic principles;

5. Real estate markets and analysis;

6. Valuation process;

7. Property description;

8. Highest and best use analysis;

9. Appraisal statistical concepts;

10. Sales comparison approach;

11. Site value;

12. Cost approach;

13. Income approach;

14. Valuation of partial interests; and

15. Appraisal standards and ethics.

(4) Experience.

(a) There is no experience prerequisite for an applicant to become a registered trainee.

(b) A registered trainee may have more than one (1) ~~supervising~~ supervisory appraiser.

(c) A registered trainee shall be subject to direct supervision by a ~~supervising~~ supervisory appraiser who shall be a state certified residential real estate appraiser or a state certified general real estate appraiser in good standing.

(d) A registered trainee shall only appraise those properties which the ~~supervising~~ supervisory appraiser is permitted to appraise.

(e) If a trainee's registration has expired or the trainee is no longer under the supervision of a state certified residential or state certified general real estate appraiser, then the registered trainee shall not perform the duties as a registered trainee until he or she submits an affidavit on a form provided by the Commission which states that he or she has a ~~supervising~~ supervisory appraiser. The registered trainee's ~~supervising~~ supervisory appraiser shall sign the affidavit stating that he or she is the ~~supervising~~ supervisory appraiser responsible for the registered trainee.

(f) A registered trainee shall maintain an appraisal log of his or her experience, shall maintain a separate appraisal log for each ~~supervising~~ supervisory appraiser, and shall, at a minimum, include the following in the appraisal log:

1. Type of property;

2. Date of report;

3. Address of appraised property;

4. Description of work performed by the trainee/applicant and scope of the review and supervision of the ~~supervising~~ supervisory appraiser;

5. Number of actual work hours by the trainee/applicant on the assignment, up to the maximum allotted by property type;

6. Client name and address; and

7. Signature and State certification number of the ~~supervising~~ supervisory appraiser.

(g) A registered trainee may conduct property inspections alone (without being accompanied by the ~~supervising~~ supervisory appraiser) only after completing five hundred (500) hours of acceptable experience. In order to conduct property inspections pursuant to this paragraph, the registered trainee shall submit a form to the Commission on which both the registered trainee and the ~~supervising~~ supervisory appraiser shall certify the experience.

(h) A registered trainee shall comply with the Uniform Standards of Professional Appraisal Practice.

(5) Examination.

(a) There is no examination prerequisite for an applicant to become a registered trainee.

(b) Once the registered trainee has completed all of the required qualifying education and experience, then the trainee may submit his or her application for license or certificate. The Commission office shall not process an applicant's application if the required qualifying education and experience have not been satisfied or if the application is incomplete. The Commission office shall keep an incomplete application active for six (6) months, unless the applicant requests an extension in writing to the Commission.

(6) Renewal.

(a) A registered trainee's registration shall expire two (2) years after the date of issuance.

(b) A registered trainee must renew his or her registration, at least thirty (30) days prior to its expiration, by filing the prescribed form with the Commission and paying a renewal fee of one hundred twenty-five dollars ($125.00).

(c) If a registered trainee fails to file the prescribed form and pay the renewal fee within thirty (30) days prior to its expiration, the registered trainee may, upon payment of a one hundred dollar ($100.00) late renewal penalty in addition to the renewal fee, apply for renewal. No late renewal will be granted if more than six (6) months ~~has~~ have passed since the expiration of the registered trainee's registration. The registered trainee may then reapply to be a registered trainee.

(7) Continuing Education.

(a) Any person in the classification of registered trainee shall be required to obtain a minimum of twenty-eight (28) ~~classroom~~ course hours of instruction in courses, seminars, workshops, or conferences approved by the Commission prior to each renewal period (hereinafter, "continuing education").

(b) As part of a registered trainee's continuing education, a registered trainee shall complete the seven (7) hour National Uniform Standards of Professional Appraisal Practice Course at least once every two (2) years as defined and required by rule 1255-04-.01(2).

(c) A ~~classroom~~ course hour is defined as fifty (50) minutes of actual instruction for each sixty (60) minute segment.

(d) The Commission may grant continuing education credit only ~~where~~ if the length of the educational offering is at least two (2) hours.

(e) An applicant may obtain continuing education credit from the following:

1. Colleges or universities;

2. Community or junior colleges;

3. Real estate appraisal or real estate related organizations;

4. State or federal agencies or commissions;

5. Proprietary schools; and

6. Other providers approved by the Commission.

(f) The Commission may grant continuing education credit for educational offerings which are consistent with the purpose of continuing education stated in subparagraph (g) below and cover real estate appraisal topics such as the following:

1. Ad valorem taxation;

2. Arbitration;

3. Business courses related to practice of real estate appraisal;

4. Construction estimating;

5. Ethics and standards of professional practice;

6. Land use planning, zoning and taxation;

7. Management, leasing, brokerage and timesharing;

8. Property development;

9. Real estate appraisal (valuations/evaluations);

10. Real estate law;

11. Real estate litigation;

12. Real estate financing and investment;

13. Real estate appraisal related computer applications;

14. Real estate securities and syndication; and

15. Real property exchange.

(g) The purpose of continuing education is to ensure that a registered trainee participates in a program that maintains and increases his or her skill, knowledge, and competency in real estate appraisal<u>s</u>.

<u>(h) A registered trainee may complete no more than one-half (1/2) of the individual's required continuing education credits via distance education.</u>

(8) Each registered trainee shall notify the Commission of such registered trainee's current residence and principal place of business, all mailing and other addresses at which the registered trainee is currently engaged in the business of assisting in the preparation of real estate appraisal reports, and the name of the registered trainee's ~~supervising~~ <u>supervisory</u> appraiser(s). When a registered trainee changes any of the above addresses or ~~supervising~~ <u>supervisory</u> appraiser(s), the registered trainee shall notify the Commission, in writing, of such change within thirty (30) days thereafter.

(9) No registered trainee may represent him or herself as a licensed or certified appraiser or use the appellation "State Licensed Real Estate Appraiser," "State Certified Residential Real Estate Appraiser," "State Certified General Real Estate Appraiser," or any form thereof, or do any other act which gives or is designed to give the impression that the registered trainee is a licensed or

certified real estate appraiser.

(10) ~~Supervising~~ Supervisory Appraisers for Registered Trainees.

(a) Supervisory appraisers shall be state-certified and in "good standing" in the jurisdiction in which the trainee appraiser practices for a period of at least three (3) years. Supervisory appraisers shall not have been subject to any disciplinary action within any jurisdiction within the last three (3) years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice. A supervisory appraiser subject to a disciplinary action would be considered to be in "good standing" three (3) years after the successful completion/termination of the sanction imposed against the appraiser.

(b) The ~~supervising~~ supervisory appraiser shall sign each written appraisal report, relating to real property in this state, which was prepared by a registered trainee under the ~~supervising~~ supervisory appraiser's direct supervision.

(c) A ~~supervising~~ supervisory appraiser shall ensure that the appraisal reports prepared by the registered trainee are prepared under the ~~supervising~~ supervisory appraiser's direct supervision. "Direct supervision" of a registered trainee means that a ~~supervising~~ supervisory appraiser shall:

1. Accompany the registered trainee and personally inspect each subject property with the registered trainee on all assignments until the trainee has completed five hundred (500) hours of acceptable appraisal experience, or until the supervisory appraiser determines the registered trainee is competent to inspect the property, in accordance with the competency rule of the Uniform Standards of Professional Appraisal Practice (USPAP) for the type property ~~and accompany the registered trainee and personally inspect each subject property with the registered trainee on all assignments that are over fifty (50) miles from the supervising appraiser's office, even after the registered trainee has accumulated over five hundred (500) hours of acceptable appraisal experience~~;

2. Review the registered trainee's appraisal report(s) to ensure the registered trainee's research of general and specific data has been adequately conducted and properly reported, that the registered trainee's application of appraisal principles and methodologies has been properly applied, that the registered trainee's analysis is sound and adequately reported, and that any analyses, opinions, or conclusions of the registered trainee are adequately developed and reported so that the appraisal report is not misleading;

3. Review the registered trainee's work product and discuss with the registered trainee any edits, corrections, or modifications that need to be made to such work product, and make such edits, corrections, or modifications as are required to such work product; and

4. Accept responsibility for the appraisal report by signing the appraisal report and certifying that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice by:

(i) Making a clear and prominent disclosure that the registered trainee has provided significant real property appraisal assistance in each appraisal report in accordance with Uniform Standards of Profession Appraisal Practice Standards Rule 2-2 and Standards Rule 2-3;

(ii) Prohibiting the registered trainee from signing any appraisal report or other document involved in the appraisal which states or implies that said

trainee is "licensed" or "certified" in any manner, and by prohibiting the registered trainee from engaging in any activity which is limited to licensed or certified appraisers, or which is designed to give third parties the impression that the registered trainee is a licensed or certified appraiser;

(iii) Ensuring that the registered trainee gains sufficient knowledge, skills, and abilities that will enable such trainee to accomplish all of the following:

(I) Define the appraisal problem, which requires the trainee to:

I. Identify and locate the real estate;

II. Identify the property rights to be valued;

III. Identify the use of the appraisal;

IV. Define value(s) to be estimated;

V. Establish date(s) of value estimate(s);

VI. Identify and describe the scope of the appraisal; and

VII. Identify and describe limiting conditions.

(II) Conduct preliminary analysis, and select and collect applicable data, which requires the trainee to:

I. Identify general data (regional, city, and neighborhood)- including social, economic, governmental and environmental factors;

II. Identify specific data (subject and comparables)-, including site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and

III. Identify competitive supply and demand in the subject market, which requires a comprehensive review of (inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies).

(III) Conduct an analysis of the subject property, which requires a trainee to analyze:

I. Site improvements;

II. Size;

III. Costs;

IV. Elements of comparison; and

V. Units of comparison;

(IV) Conduct a highest and best use analysis (specified in terms of use, time, and market participants), which requires a trainee to analyze:

I. Land as if vacant and available; and

II. Property as improved (existing or proposed).

(V) Estimate land value, including on-site improvements.

(VI) Estimate value of the property using each of the three approaches to value-cost, sales comparison and income capitalization.

(VII) Reconcile each value indication and reconcile the final value estimate.

(VIII) Report estimate(s) of value(s) as defined.

(d) A ~~supervising~~ supervisory appraiser may supervise a maximum of three (3) registered trainees at one time.

(e) A ~~supervising~~ supervisory appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last. The ~~supervising~~ supervisory appraiser shall allow the registered trainee to have reasonable access to ~~his or her appraisal reports that he or she prepared upon the registered trainee's request for copies of the reports~~ the appraisal reports to which the registered trainee contributed.

(f) A ~~supervising~~ supervisory appraiser shall notify the board in writing if he or she is no longer the supervising appraiser for a registered trainee within thirty (30) days thereafter. If the disassociation is for cause, the cause shall be communicated to the Commission.

(g) ~~On or after January 1, 2015,~~ ~~s~~Supervisory appraisers shall be required to complete a ~~seven (7)~~ four (4) hour course ~~that, at a minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to the requirements and~~ on the requirements and responsibilities of supervisory appraisers and trainee appraisers. The course ~~is to~~ shall be completed by the supervisory appraiser prior to supervising a trainee appraiser. This course may be completed via distance education.

(h) In any appraisal in which a registered trainee has inspected a subject property, the ~~supervising~~ supervisory appraiser is also required to disclose in the appraisal report whether the ~~supervising~~ supervisory appraiser has inspected the subject property both inside and out, and whether the supervising appraiser has made an exterior inspection of all comparable sales relied upon in the appraisal.

Authority: T.C.A. §§ ~~62-39-105,~~ 62-39-203, 62-39-204, 62-39-301, 62-39-303, 62-39-304, 62-39-321, and ~~62-39-317, 62-39-324,~~ 62-39-333~~, and 62-39-337~~.

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-01 General Provisions
Rule 1255-01-.12

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Randall Thomas	X				
Rex Garrison	X				
Michelle Alexander	X				
Warren F. Mackara	X				
Jason R. Bennett	X				
Rosemarie Johnson				X	
Jim Atwood	X				
Brett Mansfield	X				
Vacant					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Real Estate Appraiser Commission on October 21, 2019, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

ANN JONES STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY

Date: October 28, 2019

Signature: Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

Subscribed and sworn to before me on: October 28, 2019

Notary Public Signature: Ann Jones

My commission expires on: July 6, 2020

Agency/Board/Commission: Tennessee Real Estate Appraiser Commission

Rule Chapter Number (s): 1255-01-.12 Registered Trainee

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

4/8/2020
Date

Rules of Tennessee Real Estate Appraiser Commission
Chapter 1255-01 General Provisions
Rule 1255-01-.12

Department of State Use Only

Filed with the Department of State on: 4/13/2020

Effective on: 7/12/2020

Tre Hargett
Secretary of State

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