

Public Hearing Questions for  
**Tennessee Code Commission**  
Created by Section 1-1-101, *Tennessee Code Annotated*  
(Sunset termination June 30, 2017)

1. Provide a brief introduction to the commission, including information about its purpose, statutory duties, membership, staff, and administrative attachment.

The Tennessee Code Commission was originally created in 1953 by the General Assembly. It was reorganized in 1977. Pursuant to Tennessee Code Annotated, Section 1-1-101, the members are the Chief Justice of the Tennessee Supreme Court, the Attorney General and Reporter, a Director of the Office of Legal Services for the General Assembly, and two other members appointed by the Chief Justice. The Chief Justice serves as the Chair. All staff services for the Code Commission are provided by the Office of Legal Services. The Revisor of Statutes in the Office of Legal Services serves as the Executive Secretary of the Commission, but is not a member of the Commission.

The Tennessee Code Commission's primary purpose is to perform all duties necessary for the publication of Tennessee Code Annotated. The Code Commission is authorized and directed to formulate and supervise the execution of a plan for the compilation, arrangement, classification, annotation, editing, indexing, printing, binding, publication, sale, distribution and the performance of all other acts necessary for the publication of the official compilation of laws known as "Tennessee Code Annotated". The Executive Secretary, on behalf of the Commission, prepares written certificates of approval for each volume and pocket supplement to designate that the manuscript of the compilation conforms with the requirements of the law. The Revisor of Statutes in the Office of Legal Services assists the Commission and assists the Publisher pursuant to the provisions of the Agreement for Publication.

The Agreement for Publication of Tennessee Code Annotated with Lexis Law Publishing is administered by the Commission. The Commission approves all prices relative to the publication of Tennessee Code Annotated and determines the schedule of publication for the replacement of any volumes pursuant to the agreement.

2. Provide a list of current members of the commission and describe how membership complies with Section 1-1-101, *Tennessee Code Annotated*.

The current members of the Tennessee Code Commission are: Chief Justice Sharon G. Lee of the Tennessee Supreme Court; Justice Jeffrey S. Bivins of the Tennessee Supreme Court; Herbert H. Slatery III., Attorney General and Reporter; Karen J. Garrett, Director of the Office of Legal Services for the General Assembly; and Susan Short-Jones, a member of the Tennessee Bar. All the members are statutory except Justice Bivins and Ms. Short-Jones, who were appointed by Chief Justice Sharon Lee pursuant to Tennessee Code Annotated, Section 1-1-101.

3. How many times did the commission meet during fiscal year 2015 and to date in fiscal year 2016? How many members were present at each meeting?

The Code Commission met once in 2015 on November 10, 2015. Chief Justice Lee presided via video conferencing. Justice Bivins, Karen Garrett, Susan Short-Jones attended in person.

The Code Commission is scheduled to meet on November 15, 2016, and it is anticipated that all members will attend.

4. What were the commission's revenues (by source) and expenditures (by object) during fiscal years 2014 and 2015 and to date in fiscal year 2016?

The Code Commission's appropriation for both the 2014-2015 and 2015-2016 fiscal years was \$68,900, all state appropriations. The sum of \$27,981.62 was expended during the 2014-2015 fiscal year and \$27,030.82 has thus far been expended during the 2015-2016 fiscal year. The 2016 fiscal year has not yet commenced.

The bulk of the Commission's expenses are proofreading services for Code supplements and replacement volumes. The Commission has no paid staff. The Commission also pays costs for legal materials used by employees of the Office of Legal Services for the General Assembly who are primarily involved in doing staff work for the Commission.

5. How does the commission ensure that all revisions to state law are included in the *Tennessee Code Annotated*? What procedures does the commission have in place for approval of manuscripts of the revised compilations?

The staff of the Commission initially checks all bills and accompanying amendments against the signed Public Acts to ensure that the public act accurately reflects the General Assembly's action. Proposed codification and editing of the public chapters by the Publishers are reviewed and approved by the Revisor of Statutes. When the draft supplements and replacement volumes are prepared, the Commission has the manuscripts of revised compilations proofread and reviewed by its staff and experienced Code proofreaders. Any errors found in this proofreading are then transmitted to the Publisher. Replaced volumes and supplements are also checked after publication to ensure that all needed corrections have been made. If needed, the Publisher is directed to issue errata notices or reprint materials.

6. Describe the commission's procedures for selecting a publisher for the *Tennessee Code Annotated*. What criteria are used in that selection? Who is the current publisher? Briefly describe the contract terms.

When the Code Commission decides to begin the process of selecting a Publisher, it has a legal advisor appointed by the Attorney General to advise the Commission during the procedure and to draft the necessary documents for the procedure. The following is an outline of the procedure followed in 1996 (copies of all documents are available in the Commission files):

- (1) The legal advisor was designated and prepared an initial draft of the “draft request for proposals” on publication of the Code.
- (2) The initial draft was reviewed and revised by the Commission. The revised draft was submitted to Publishers of codes and state statutes.
- (3) A pre-proposal conference was held by the Executive Secretary and the legal advisor with the Publishers to receive comments and questions on the draft request for proposals.
- (4) Written responses were prepared for all questions submitted at the pre-proposal conference and the Code Commission, with the advice of the legal advisor, prepared the final request for proposal (RFP).
- (5) The Code Commission appointed an evaluation committee to evaluate the proposals filed in response to the RFP. The evaluation of the proposals was received at a meeting of the Code Commission.
- (6) The Code Commission at a subsequent meeting selected a Publisher with whom the Chair was to negotiate an agreement for publication of the Code.
- (7) The Chair, with the assistance of the legal advisor, negotiated an agreement which was submitted to the Commission at a meeting whose primary purpose was to finalize the terms of the agreement on publication.

The Final RFP had the following section:

#### Analysis of Proposals

The following factors will be considered in judging all proposals:

- (1) Computer Processing. Utilization of modern automated computer processing by the Publisher will be a necessary prerequisite.
- (2) Publisher Experience. The Publisher selected must have a reputation for quality work and timely delivery.

- (3) Editing Capabilities.
- (4) Indexing Ability.
- (5) Replacement Volumes Schedule.
- (6) Retail Prices.
- (7) Timely Publication Service.
- (8) Compliance with Minimum Requirements set out herein.

Computer tapes and technical assistance shall be considered in each proposal but their availability is secondary to the preceding criteria.

The current Publisher is Lexis Publishing, a division of Reed Elsevier Properties, Inc., and the successor to Michie Law Publishers.

The 1996 Agreement for Publication gives Lexis Publishing exclusive rights to publish the Tennessee Code Annotated, a copyrighted publication of the state of Tennessee. The agreement provides that publication is without cost or subsidy by the state, guarantees a twenty-five percent (25%) discount to state agencies on Code publications, prescribes the editorial duties of the Publisher, the contents of the Tennessee Code Annotated, limitations on editorial changes, publication duties of the Publisher, specifications for the Code materials, schedules and deliveries, pricing including the authority of the Commission to set prices, retention of the copyright to Code publications by the state of Tennessee, supervision of publication by the Commission, termination of the agreement, and other duties of the Publisher. A copy of the Agreement for Publication is available in the files of the Commission in G-17, War Memorial Building.

In 2005, the 1996 Agreement for Publication was amended to reflect the change in the Publisher's name from "Michie, a Division of Reed Elsevier, Inc." to "Matthew Bender & Company, Inc.". The Office of Legal Services was also to be provided complimentary subscriptions to the online legal research products of affiliate LexisNexis. The contract was further amended to adopt a ten-year price schedule for the Tennessee Code Annotated and thereafter such prices will be set yearly by the Tennessee Code Commission. As part of this amendment, sets of the Tennessee Code Annotated owned or acquired by the state, not to exceed 578 sets, are entitled to upkeep services without charge. The purchase price of any set of Tennessee Code Annotated will be \$100. All sets purchased in excess of 578 are entitled to a 50% discount from the regular retail price of replacement volumes, supplements, indexes and ancillary publications. A copy of the Amendment to the Agreement for Publication is available in the files of the Commission in G-17, War Memorial Building.

In 2013, the 1996 Agreement for Publication was amended to adopt a five-year price schedule for the Tennessee Code Annotated and thereafter such prices will

be set yearly by the Tennessee Code Commission. The amendment also removed the requirement that the Publisher continue collateral references to the West Key Number System and other specific collateral references; authorized the Publisher to discontinue production of the Code CD-ROM product if the number of paid subscribers falls below twenty (20); and specifies that the complimentary subscriptions to online service of LexisNexis, as referenced above, will be provided upon request of the Executive Secretary.

7. What determines the frequency of publication? What determines the choice of publishing a pocket supplement or a new volume of the *Tennessee Code Annotated*?

The frequency of publication is dependent upon the sessions of the General Assembly. Supplements are published after each annual or extraordinary session of the General Assembly based on actions taken in that session.

Pocket supplements are used until the supplement is of such a size that its use is unwieldy and time-consuming for the users. Generally, this is around the 200-page size. A preference is given to replacing supplements by size, but other considerations including pending legislation, the age of the bound volume, related subject matter, and rate of supplement growth are taken into account. To keep the overall size, and price, of the annual supplements consistent, three to five volumes need to be replaced each year, on average.

The actual choice of volumes to be replaced each year is made by the Commission based on recommendations of the Publisher and the Commission staff. Replaced volumes are scheduled so as to include the most recent actions of the General Assembly.

8. What policies are in place to address potential conflicts of interest by commission members or staff?

All current members of the Commission are licensed attorneys and thus are subject to the Rules of Professional Conduct. The judicial members of the Commission are subject to the Code of Judicial Conduct, as well as the provisions of Tennessee Code Annotated, Title 8, Chapter 50, Part 5. The members of the Commission who are state employees are also covered by the provisions of Tennessee Code Annotated, Title 3, Chapter 6, the "Tennessee Ethics Commission Act of 2006". In addition, the Agreement for Publication in paragraph 10.14 prohibits payments, wages, or gifts by the Publisher to any employee or official of the state of Tennessee for any work contemplated or performed relative to the Agreement for Publication.

9. Describe any items related to the commission that require legislative attention and your proposed legislative changes.

The only item that routinely requires legislative attention is enactment of an annual codification act to codify the previous session's acts. On occasion,

problems are discovered in the codification process which may require legislation to clarify or effectuate prior legislative actions.

10. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare?

The Commission should be continued. At very minimal cost the Commission has assured a high quality, low cost official law code for the state of Tennessee and its citizens since 1953. Prior to that time there was no mechanism for providing lawyers and judges with updated, consistent, and timely compilations of the Acts of the General Assembly. Without the existence of the Commission and its ability to establish and arrange for the publication and distribution of an official law code, the confusion, delay, and uncertainty which existed prior to 1953 could be expected to reoccur. Competing unofficial law compilations would likely increase costs throughout law enforcement because of adjudication over inconsistencies between different compilations and the necessity of lawyers and judges to have copies of all commonly available law compilations. In addition, the discounted price and free upkeep service which the Commission has arranged for state agencies would not be guaranteed and costs to the state of providing law codes to judges and state agencies could be expected to increase significantly. Criminal and civil litigation costs could also increase due to appeals or challenges to judgments arising from inconsistent or conflicting compilations.

In summary, without the Commission, the state would have no way of guaranteeing or controlling the content, quality, or price of a law code which is the basis for most civil and criminal litigation in Tennessee, and a variety of other governmental functions, activities, and authorities.

11. Has the commission developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the commission has developed and implemented quantitative performance measures, answer questions 12 through 19. If the commission has not developed quantitative performance measures, proceed directly to question 20.

No.

12. What are your key performance measures for ensuring the commission is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.
13. What aspect[s] of the program are you measuring?
14. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.
15. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

16. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?
17. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.
18. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.
19. Describe any concerns about the commission's performance measures and any changes or improvements you think need to be made in the process.
20. Please list all commission programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Commission has no programs or activities that receive any federal financial assistance.

**If the commission does receive federal assistance, please answer questions 21 through 28. If the commission does not receive federal assistance, proceed directly to question 27.**

21. Does the commission prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
22. Does the commission have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.
23. To which state or federal agency (if any) does the commission report concerning Title VI? Please describe the information your commission submits to the state or federal government and/or provide a copy of the most recent report submitted.
24. Describe the commission's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
25. Describe the commission's actions to ensure it is meeting Title VI requirements. Specifically, describe any commission monitoring or tracking activities related to Title VI, and how frequently these activities occur.
26. Please describe the commission's procedures for handling Title VI complaints. Has the commission received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

27. Please provide a breakdown of current commission staff by title, ethnicity, and gender.

The Office of Legal Services provides staff services for the Tennessee Code Commission. Virtually all services are provided by one attorney, although the entire legal staff may be called upon to provide assistance if necessary.

<u>TITLE</u>	<u>ETHNICITY</u>	<u>GENDER</u>
Director (2)	Caucasian (2)	Female (1) Male (1)
Attorneys (16)	Caucasian (15) African-American (1)	Male (8) Female (8)

The breakdown of the Code Commission itself is as follows:

<u>TITLE</u>	<u>ETHNICITY</u>	<u>GENDER</u>
Chair	Caucasian	Female
Attorney General	Caucasian	Male
Director of Legal	Caucasian	Female
Appointed Member	Caucasian	Male
Appointed Member	African-American	Female

28. Please list all commission contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

The Code Commission routinely contracts with Elite Reporting Services to provide a court reporter transcript for Commission meetings. Most recently, Elite Reporting Services charged a \$200 appearance fee plus \$5.40 per page. The owner of Elite Reporting is Caucasian.

The Code Commission routinely contracts with Mr. Bill Hollings to perform proofreading services for replacement volumes and supplements. Mr. Hollings was employed by the Office of Legal Services before he retired and was the principal attorney for the Code Commission during his tenure at the Office of Legal Services.

This work falls into two categories; one involves the annual replacement volumes and the other involves the annual supplements.

In the case of the replacement volumes, Mr. Hollings, with an assistant, reads the revised replacement volume text against the hard bound volume and supplement being replaced. Usually, the new volume is read by him while his assistant follows the text being replaced, whether in the bound volume or the supplement, as applicable. This method enables him to catch any mistakes which are present in the existing volume and are being carried forward in the

replacement. These mistakes are noted separately to Code Commission staff for their action. Any mistakes, omissions, inconsistencies or questions between the existing text and the replacement text are also forwarded to Commission staff.

In the case of the annual supplements, a similar procedure is followed, except in this instance Mr. Hollings reviews the supplement text while his assistant reads the text of the Public Acts which are being codified. Any mistakes, omissions, inconsistencies or questions are referred to Commission staff. Prior to receipt of the volume supplements, he reviews the Public Acts and sorts them in titles by sections being amended. This arrangement is then reviewed against the sections amended table produced by the Publisher. Any changes between section numbers assigned by the General Assembly and those used by the Publisher are noted. At the end of the process, he reviews any remaining Public Acts, or sections of Acts, to ensure that all appropriate material has been codified. In case of a question, reference is made to the Revisor of Statutes in the Office of Legal Services.

This in-state proofreading, involving examination of each word of the Tennessee Code statutory text, is considered the basis for the Executive Secretary's "Certificate of the Tennessee Code Commission", contained in each replacement volume and supplement, which guarantees to Code users that the codification is the exact text of the Acts of the General Assembly contained therein.

Copies of the Public Acts are provided to Mr. Hollings by Commission staff and the Publisher sends proof of replacement volumes and annual supplements to him directly. A set of the Tennessee Code Annotated is on loan to him from the Commission. Any other expenses incurred by him in proofreading, including compensation for assistants and payment for materials and supplies, are paid by him at no additional cost to the Commission. Mr. Hollings charges \$70 per hour. He is Caucasian.

See question 6 for information on the Agreement for Publication with the LexisNexis group.

## AGREEMENT FOR PUBLICATION

THIS AGREEMENT FOR PUBLICATION ("Agreement"), made this 11<sup>th</sup> day of December, 1996, by and between the Tennessee Code Commission ("Commission") and Michie, a Division of Reed Elsevier Inc. ("Publisher"),

### WITNESSETH:

Some of the facts and circumstances surrounding the execution of this Agreement are as follows:

A. On March 5, 1996, the Commission issued a Request for Proposals for publishing and maintaining Tennessee Code Annotated under the authority of Tenn. Code Ann. §§ 1-1-106 and 1-1-107 ("RFP").

The Commission has received and evaluated proposals to publish and maintain T.C.A. pursuant to that request and by action taken on July 8, 1996, Publisher was selected to negotiate with the Commission's representatives toward the contract to publish and maintain T.C.A. pursuant to its proposal ("Proposal").

B. The parties desire to enter this Agreement for the purpose of establishing the terms and conditions for the publication of T.C.A.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties agree as follows.

### **1. EDITORIAL DUTIES OF PUBLISHER.**

**1.1 General.** Publisher shall perform and provide all editorial services necessary for the publication of T.C.A. Publisher shall provide and be responsible for all ongoing publishing requirements associated with the maintenance of T.C.A. Publisher shall bear all editorial and publication costs associated with the production and maintenance of T.C.A., without any contribution, subsidy or expense by the State of Tennessee (hereinafter "State"), or any other consideration from the State than that provided in this Agreement. Duties of Publisher shall extend to all T.C.A. publications in whatever form covered by this Agreement. As used in this Agreement, T.C.A. shall include, as appropriate, the existing bound volumes of the Tennessee Code Annotated and supplements thereto, any replacement volumes and ancillary publications or any other publications authorized under this Agreement containing material copyrighted by the State under this Agreement, to the extent of such incorporation, in whatever form or medium.

**1.2 Name of Publication.** The name of the publication shall be "TENNESSEE CODE ANNOTATED".

**1.3 User's Guide.** Publisher shall provide a User's Guide for T.C.A. containing instructions for use of T.C.A. which shall be usable and easily understood by both lay and professional persons. User's Guides shall be included in each bound volume of T.C.A. covering the use of the volume and supplements. A guide for users shall be set out in other parts of T.C.A. or other publications under this Agreement as requested by the Executive Secretary.

**1.4 Organization and Arrangement.** Publisher shall submit a written plan for the organization and arrangement of all the replacement volumes published pursuant to § 2.2 for approval by the Commission, if such organization and arrangement differs from present volumes.

**1.5 Numbering of Sections.** Publisher shall continue the section numbering system currently in use in T.C.A. The number in the first tier shall represent the title; the number in the second tier shall represent the chapter; and the number in the third tier shall represent the part and section. The system shall provide for either alphabetic or numeric characterization for subdivisions of individual sections.

**1.6 Annotations.** Publisher shall compile a complete annotation to each statute appearing in T.C.A. from all cases which are available up to the time work is completed upon volumes designated for replacement or upon the supplements or other publications requiring annotations required by this Agreement, as the case may be. All case annotations shall include all published opinions of the Supreme Court of Tennessee, the Court of Appeals of Tennessee, the Court of Criminal Appeals of Tennessee, the Court of Chancery Appeals of Tennessee, the Court of Civil Appeals of Tennessee, and of all federal courts construing Tennessee statutes arising out of Tennessee. Such annotations shall also include cases compiled in Cooper's Tennessee Chancery Reports, Thompson's Cases, Shannon's Cases, and The Tennessee Chancery Appeals Reports. References to such annotations shall include both the official publication and the national reporter system reference where available. The form of annotations will be subject to the approval of the Commission. Annotations will be consecutively numbered, in a manner comparable to the arrangement of annotations in the United States Code Annotated.

**1.7 References.** Publisher shall provide the following services for references in T.C.A.:

(a) Continue collateral references to West Key Number System, American Law Reports, American Jurisprudence 2nd, Corpus Juris Secundum, comparable legislation from other states, and law reviews;

(b) Continue annotations to the Opinions of the Tennessee Attorney General;

(c) Update existing references:

(d) Add any new annotations as determined by Publisher's editorial staff and approved by the Executive Secretary or as recommended by the Commission or Executive Secretary: and

(e) Check for continuing validity of any existing references and annotations prior to publication of replacement volumes and the annual supplements.

**1.8 Index.** A comprehensive General Index ("Index") shall be updated and published annually in a soft-cover format similar to the current Index and shall be available at the same time that the annual supplements to the T.C.A. are published. The Commission may require at a future date the publication of the Index in a hardcover format with annual supplements to such Index volumes.

A computer tape of the Index shall be furnished to the Commission on the request of the Executive Secretary at no cost to the State. This tape is separate from that specified in § 2.4.

The Index shall contain "topical expressions," "descriptive fact words," "definitions," "popular names" and short titles sufficient to provide easy access to sections of the Code. The Index shall include an index to the uncodified public acts. Additions to this index will be indicated by the Executive Secretary when public chapters are classified.

**1.9 Limitations on Editorial Changes.** In performing editorial services, Publisher shall not alter the sense, meaning or effect of any statute, but shall copy the exact language of the text of such statutes, except that with notice to and approval by the Executive Secretary, Publisher may make changes of the kind authorized by T.C.A., § 1-1-108, as the same may be hereafter amended. Publisher shall call to the attention of the Executive Secretary any sections which it believes may have been repealed by implication either by judicial action or by enactment of subsequent legislation or which it believes are obsolete or unconstitutional. Publisher shall take only such action with respect to such sections as the Executive Secretary may approve.

Publisher shall provide to the Executive Secretary in memorandum, or other form, a listing of editorial changes made in the public acts and in existing supplement or bound volume material, and a disposition table or chart indicating the placement and treatment of public acts.

The Publisher, through an experienced editorial staff, shall review material in each volume prior to its replacement or enactment and refer to the Commission the laws in such volume which it considers to be archaic, obsolete or unconstitutional. Any archaic or obsolete references or annotations shall be removed prior to replacement with the approval of the Commission.

**1.10 Legislative History.** Publisher shall insert after each section the source and history of that section, including the number of that section as it appeared in any previous official code, including the Code of 1850, the 1932 Code, the 1950 Code Supplement, and the unofficial codes known as Shannon's Code and Williams' Tennessee Code where the number in that codification differs from the number in the Code of 1932 or the 1950 Code Supplement. Publisher shall also insert the public act or acts constituting the source of the section and the amendments or modifications thereto.

**1.11 Tables.** Publisher will prepare and include in T.C.A. an appropriate table of contents, frontal analysis, and a table showing the distribution of statutes. Publisher shall publish as a part of T.C.A. parallel reference tables to the Code of 1858, Shannon's Code, the 1932 Code, Williams' Tennessee Code, the 1950 Supplement to the Code of Tennessee, and current replacement volumes of T.C.A., together with Tables showing where the public acts for various years appear in T.C.A. Appropriate mortality tables and such other tables as may from time to time be requested by the Commission shall also be included. Publisher shall include parallel reference tables for the two-tier and three-tier numbering systems. Publisher shall include a table showing the population data for each county in the State of Tennessee and for the State of Tennessee as a whole from the federal census data commencing with the year 1900 and including all subsequent reports up to the most recent available. In addition, Publisher shall include such additional reference tables, including those currently published in T.C.A., as Publisher shall determine to be appropriate with the approval of the Commission, or which the Commission may reasonably request.

**1.12 Constitutions of the United States and the State of Tennessee.** Publisher shall include in T.C.A. the Constitution of the United States and the Constitution of the State of Tennessee, with appropriate annotations thereto in all respects conforming to the statutory annotations as set forth in § 1.6 hereof; provided, that annotations to the United States Constitution need only refer to federal court cases arising in the State of Tennessee. Publisher shall prepare separate indices for each Constitution.

**1.13 Documents Incorporated.** Publisher agrees to perform the obligations described in and perform in accordance with the RFP, as amended, and Proposal which are incorporated herein by reference and attached hereto as Exhibits A and B provided, however, the Commission is not bound by any provision of the Proposal. In the event of an actual conflict, the documents shall govern in the following order:

- 1) this agreement;
- 2) RFP Amendments;
- 3) RFP;
- 4) Proposal.

**1.14** Publisher shall provide on or before the date of this agreement a proposal for review and possible approval by the Commission whereby the volume currently containing the Court Rules would also be offered in a 2 volume set with one volume containing the Rules of Evidence, Rules of Criminal Procedure, and Rules of Civil Procedure and the other volume containing all other material currently in the Court Rules volume. The price of the 2 volume set may not exceed \$22.50 for the private sector and \$15.01 for the public sector, subject to Section 5.2.

**1.15** Publisher agrees that any specialty or "slice" products of the Code shall require prior Commission approval as to price and content.

**1.16 Internet.** Publisher shall present a strategy to implement its Proposal upon request by the Commission whereby Publisher further explains its plans regarding the Internet as discussed on pp. 49 and 50 of its Proposal. Publisher shall take no action to implement its Proposal regarding the Internet until the Commission has given its approval.

## **2. PUBLICATION DUTIES OF PUBLISHER.**

**2.1 Scope.** Publisher shall provide all printing and distribution services necessary to publish and distribute T.C.A. and all other publications described in this Agreement. Publisher shall secure all materials needed to compile the T.C.A., except copies of legislative acts and any tapes furnished by the Commission. Publisher agrees to maintain at all times an adequate staff and adequate publishing and distribution facilities necessary to carry out its duties hereunder.

**2.2 Replacement Volumes.** By October 31 of each year, Publisher shall recommend a schedule of replacement volumes to the Commission for its approval. By no later than December 1, 1996, Publisher shall schedule for publication replacement volumes as recommended to and approved by the Commission. Publisher shall consult with the Executive Secretary for suggestions prior to submitting its recommendations.

If the content or arrangement of a volume proposed in such replacement is different from the content or arrangement of the volume to be replaced, the changes shall be specified by Publisher and approved by the Commission. The present style of numbering volumes shall be continued, unless a change is authorized by the Commission. The Commission also reserves the right to change volumes to be replaced if circumstances, such as legislative actions, make such changes desirable.

Publisher shall possess sufficient production capacity to provide other replacement volumes in a timely manner as directed by the Commission. Such volumes shall match in

materials and form the current publication as closely as possible. The publication of all replacement volumes and their retail prices require the prior approval of the Commission.

**2.3 Advance Legislative Service.** Publisher shall provide an Advance Legislative Service ("ALS"). The Publisher shall issue an Advance Legislative Service periodically to the subscribers during a regular legislative session and after an extraordinary legislative session unless otherwise directed by the Executive Secretary. The service shall be soft-cover pamphlets containing all public acts. Such service shall include marginal notes, a cumulative subject index based on headings which are in use in the General Index, a cumulative table of the Codes sections amended or repealed, a cumulative table of effective dates of public acts and the final service shall be published within thirty (30) days of receipt of the last act of a session of the General Assembly, and the computer tapes containing the last act, subject to approval by the speakers of their transfer.

**Advance Code Service.** Publisher shall provide an Advance Code Service ("ACS") quarterly as a part of the annual upkeep service (Supplements and ALS). The ACS shall consist of three (3) soft-cover cumulative pamphlets spaced evenly between annual supplements. The ACS shall contain all relevant annotations to T.C.A. developed by Publisher between annual supplements. It shall also include codified versions of any public acts passed at special sessions of the General Assembly, any new court rules or rule amendments adopted since the last court rules supplement, and errata or other notices.

**2.4 Supplements.** Unless the Commission otherwise directs, Publisher shall publish the supplements to T.C.A. beginning in 1997 and succeeding years within eighty (80) days of receipt by Publisher of all enactments from the previous regular or extraordinary session, including the computer tapes of the enactments, subject to approval by the speakers of their transfer. The Executive Secretary shall advise Publisher by March 1 of each year in what form acts will be sent to Publisher.

In addition to the Codification Bill specified in § 2.7 below, Publisher shall deliver to the Executive Secretary, at no cost to the State of Tennessee, computer tapes which accurately represent the new legislation, including identifiers and codes which define each unique element of information contained, whenever the Commission requests compliance with § 2.9.

Publisher shall provide assistance, if requested by the Commission, for the development of automated information processing capabilities to facilitate any or all aspects of any information system which involves the Code. Such system may include provisions whereby the Commission shall provide or receive material in a format compatible with the computer processing system to or from Publisher.

Publisher shall also prepare and provide to the Commission two (2) bound copies of the annual supplements without cost.

Publisher shall also provide the Executive Secretary with a copy of the annual supplements and any replacement volumes for the purpose of checking and proofreading, in addition to any pre-publication proofs. Such supplements and volumes shall be supplied at the time the general distribution is made of such materials.

**2.5 CD-ROM.** The Publisher shall:

(a) publish, sell, and distribute the Tennessee Code Annotated on a single CD-ROM (Code CD-ROM). The Publisher must render and perform all services necessary for the preparation and publication of the Code CD-ROM, in all forms, and shall bear all editorial and publication costs, without any contribution, subsidy or expense of the State of Tennessee. General requirements for the Publication of the Code CD-ROM are as stated in Exhibit C which is hereby expressly incorporated in and made a part of this document. In the event of any dispute between the Publisher and the Commission, the decision of the Commission will prevail.

(b) Publisher shall include on the Code CD-ROM the Code Material and the opinions of the Attorney General and Reporter. (As used herein the "Code Material" is defined to include the Tennessee Code Annotated, the annotations, catch lines, and legislative history, the Tennessee Constitution, the Tennessee Court Rules Annotated, and the general index). The Code Material and Tennessee Attorney General Opinions, are included within the prices on Exhibit D. The Code CD-ROM may include other Tennessee legal resources, subject to the approval of the Commission;

(c) Publisher shall make available for the Commission's review and approval, upon request, the proofs of all Code Materials before the Code CD-ROM is distributed. The Publisher shall bear sole responsibility to assure that the statutory text on the CD-ROM has been certified and is in compliance with the contract.

**2.6 Proofreading.** Publisher shall provide page proofs to the Commission for proofreading at a reasonable time prior to the printing of supplements or replacement volumes, the time schedule being subject to the approval of the Executive Secretary.

Publisher shall provide a schedule of printing supplements and replacement volumes and necessary deadlines prior to the time page proofs of such supplements and volumes are provided to the Commission, and such schedule shall be subject to approval of the Executive Secretary to ensure adequate time for the in-state review and proofreading of such materials prior to publication.

**2.7 Codification Bill.** Publisher shall provide to the Executive Secretary, at no cost, copies of the Codification Bill in the number to be specified by the Executive Secretary.

Publisher shall provide a proof of a Codification Bill to be reviewed by the Executive Secretary prior to November 1 preceding the legislative session with printed copies containing

revisions provided by the Executive Secretary to be delivered by December 10. Any Codification Bill required on account of an extraordinary session will be prepared and delivered by Publisher to the Executive Secretary in the number specified by the Executive Secretary unless directed otherwise.

**2.8 Errata Notices.** Publisher shall furnish to subscribers and other purchasers errata notices of any substantial publishing errors contained in supplements or replacement volumes, as directed by the Executive Secretary. Such notices would be notations included in other subscriber publications, notice cards mailed to subscribers, or paste-over "flimsies" designed to cover up incorrect material, according to the severity of the error.

**2.9 Computer Tapes.** After each regular or extraordinary session, Publisher shall prepare and provide to the Commission, at no cost to the State of Tennessee, computer tapes containing an accurate representation of the material contained in the bound volumes of T.C.A. and its cumulative supplements, as amended in such regular or extraordinary session, for the use of the Commission and the General Assembly within ten (10) days of the publication of the supplements from any regular or extraordinary session or at such earlier time as the tapes may otherwise be distributed to search service companies. Such computer tapes shall contain all editorial revisions and the prior and new materials shall be merged in a continuous format. The tapes shall be delivered pursuant to written request of the Executive Secretary. The various elements of this material shall be structured and easily identified to facilitate ease of use in automated systems being used by the General Assembly to provide bill drafting, statutory research, and other automated services. The physical characteristics of these computer tapes must be compatible with supplement tapes as provided in § 2.4 and computer equipment currently installed in the Office of Legislative Information Systems of the General Assembly, and Publisher shall consult with the Commission, the Executive Secretary and the Office of Legislative Information Systems concerning such characteristics. The computer tapes shall be as specified in Appendix A to this Agreement. Publisher shall provide such assistance as may be necessary to enable the Commission to make full use of the computer tapes.

The Executive Secretary may specify in his written request that either computer tapes with annotations or computer tapes without annotations be provided. Such tapes shall become the property of the Commission, and the Commission shall determine the use of such tapes, including transfer of such tapes to a successor publisher, but such tapes will not be sold or distributed to the public by the Commission.

### **3. SPECIFICATIONS.**

Publisher shall publish T.C.A. in the number of volumes approved in writing by the Commission. The volumes shall continue to be similar to the volumes of the present Code, with an average of seven hundred twenty-five (725) to seven hundred fifty (750) pages, the actual size of any particular volume depending upon the statutory provisions deemed advisable to be

included in that volume. The final decision as to contents of each volume shall rest with the Commission as communicated by the Executive Secretary. Larger or smaller volumes in particular instances may be published with the written approval of the Commission through the Executive Secretary.

Each volume shall be trimmed page size of nine and one half inches (9 1/2") in length and six and one-half inches (6 1/2") in width.

All sets of the Code, replacement volumes and supplements will be made to conform in all respects to existing volumes of the Code. Materials shall be equal or superior quality to existing volumes in accordance with the following technical specifications:

See Exhibit G to RFP.

C

#### **4. SCHEDULES AND DELIVERY.**

**4.1 Replacement Volumes.** Replacement volumes shall be scheduled as established in writing between the Commission, through its Executive Secretary, and Publisher.

**4.2 Supplements.** Supplements shall be delivered within eighty (80) days of receipt by Publisher of all legislative enactments from the previous session of the General Assembly. The Executive Secretary shall advise Publisher by March 1 of each year in what form acts will be sent to Publisher.

**4.3 Comprehensive General Index.** The Index required by § 1.8 shall be delivered no later than the annual supplements.

**4.4 Computer Tapes.** The computer tapes described in §§ 1.8, 2.1, 2.4, and 2.9 shall be prepared no later than ten (10) days after the supplements from any regular or extraordinary session are delivered, as provided in § 4.2, or at such earlier time as the tapes may otherwise be distributed to search service companies. The tapes for the use of the Commission and General Assembly shall be delivered pursuant to written request of the Executive Secretary. Publisher agrees to provide such assistance as may be necessary to enable the Commission to make full use of the computer tapes.

**4.5 Advance Legislative Service.** The Advance Legislative Service shall be delivered within thirty (30) days of receipt of the last act contained in each volume or pamphlet.

**4.6 Advance Code Service.** The Advance Code Service shall be delivered on a schedule approved by the Executive Secretary.

## **5. PRICES.**

**5.1 Setting of Prices.** Prices for each component of T.C.A. (e.g., supplements, replacement volumes, complete sets) will be established for each year of this Agreement by a letter from the Commission, each of which letters is incorporated herein. Prices for each year will be set by the Commission after consideration of an itemized request from Publisher which shall include information on prices of similar code components in other states from Publisher and other publishers, projected increases or decreases in the number of pages, or other requirements relevant to cost, industry cost changes as reflected in the Printing, Trades, Machinery and Equipment component of the Producer's Price Index as published by the U. S. Department of Labor, and any other nonconfidential, relevant information the Commission requests.

**5.2 Price Changes.** For the term of this Agreement, the prices shall be as provided on Exhibit D. After the initial year, price changes may be requested by Publisher or the Commission by October 31 of the year preceding the year the change takes effect. The Commission may, in its absolute and sole discretion, approve a price change initiated by either party. Notwithstanding any provision herein to the contrary, in the event the Commission approves, disapproves, or modifies a price change, then the Publisher is obligated to perform at the price approved by the Commission. The Publisher is required to provide the Commission with all relevant information relating to a price change.

**5.3 Purchases By Units of State Government.** Purchases by units of State Government may be made through one (1) or more state agencies, departments or officials. All of such units shall be entitled to a twenty-five percent (25%) discount from the regular retail price of any set of T.C.A., replacement volume, supplement, or index thereto, or any ancillary publication. The Commission shall have the right of final determination as to whether a particular unit is entitled to the discount provided in the preceding sentence. If Publisher questions a claim for discount, it may consult the Executive Secretary.

**5.4 Tapes.** Publisher agrees to provide Commission with the tapes specified in §§ 1.8, 2.1, 2.7, and 2.9, without cost to the Commission. The price of computer tapes provided to search service companies, as provided for in § 8, shall be set by Publisher, which shall furnish the Commission with financial data on its costs and prices in preparing and furnishing these tapes.

## **6. COPYRIGHT.**

The work of Publisher shall be work made for hire. All the contents of T.C.A., including all supplements and replacement volumes, and those parts of any other publications authorized by the Commission containing T.C.A. copyrightable materials, to the extent of such incorporation, shall be copyrighted in the name of the State, and all copyrights thereto shall be

vested, held, and renewed in the name of the State of Tennessee. This copyright shall cover all copyrightable parts of T.C.A. in all relevant media, including print and electronic (computer tapes and CD-ROM, including identifiers and codes). Further, Publisher shall take all necessary actions to renew any existing copyrights in the name of the State of Tennessee. Publisher shall provide evidence of the registration and/or renewal of all copyrights to the Executive Secretary. Neither the Commission nor the State of Tennessee shall be liable to any third party who purchases any computer tape or CD-ROM of T.C.A. Publisher shall save and hold the State of Tennessee harmless for any and all legal claims, damages, and judgments arising out of the use of any computer tape or CD-ROM of T.C.A.

#### **7. SUPERVISION.**

Publisher agrees that all compilations, codifications, annotations, and other matters to be included in T.C.A. shall be submitted to the Executive Secretary in advance of publication, in order that such items may be checked, proofread, verified and certified by the Executive Secretary prior to publication as provided by the minimum requirements. In the event of disagreement as to material to be included in such T.C.A., or as to any codification, annotation or other matter of editorial content, Publisher shall abide by and follow the decision of the Commission as communicated by the Executive Secretary. In the event of any other dispute between Publisher and the Commission concerning publication of the T.C.A. or performance under this Agreement, the decision of the Commission shall prevail.

#### **8. EXCLUSIVE RIGHT TO PUBLISH AND SELL.**

The Commission grants to Publisher the exclusive right to publish and sell T.C.A. and ancillary publications in all forms and media as authorized in this Agreement, all in accordance with the terms and provisions of this Agreement; subject, however, to the right of termination contained in § 9. Publication shall include publication in all relevant media, printed or electronic, but the Commission reserves the right to allow state agencies, reviewers, holders of legal seminars, or other similar users to reproduce portions of T.C.A.

Tapes may be provided only to search service companies, such as West Publishing Company with Westlaw or LEXIS/NEXIS, or a similar operation. Tapes shall be sold on an equal basis to any search service company, provided, Publisher shall not be required to sell tapes for the purpose of placing the material on the Internet or similar network unless approved by the Commission. Publisher is required to notify the Commission promptly in writing of any request to sell the tapes for the purpose of placing the material on the Internet. Upon request of the Commission, Publisher shall furnish to the Commission information on its costs and prices for such tapes, and such other information as the Commission may require. Neither T.C.A. subscribers nor the State of Tennessee shall subsidize the cost of producing these tapes.

Any publication of T.C.A., or portions thereof, shall identify it as "Tennessee Code Annotated" or "T.C.A." without any additional qualifier or name which would indicate to a user that T.C.A. was not a state copyrighted publication, and include notice of the state's copyright.

## **9. TERMINATION.**

**9.1 Termination for Cause.** The Commission may terminate this Agreement for cause whenever the Commission determines that Publisher has failed to perform one (1) or more of its contracted duties and responsibilities in a timely and proper manner or in a manner satisfactory to the Commission, and is unable to cure such failure within a reasonable period of time as specified by the Commission, or if Publisher fails to adhere to any of the terms of this Agreement. Such termination shall be referred to herein as "Termination for Cause".

In the event of termination for cause as provided by this Section, the Commission may procure, upon such terms and in such manner as the Commission shall deem appropriate, services similar to those terminated, and Publisher shall be liable to the State for any excess costs for such similar services. In addition, Publisher shall be liable to the State for administrative costs or other damages incurred by the Commission in procuring such similar services.

The rights and remedies of the State provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. Notwithstanding the above, Publisher shall not be relieved of its liability to the State for damages sustained by virtue of breach of the Agreement by Publisher.

**9.2 Termination for Convenience.** The Commission may terminate this Agreement for convenience without cause by giving written notice to Publisher at least one hundred twenty (120) days before the effective date of such termination, if for any reason the Commission determines, in its sole discretion, that such termination is in the best interest of the State.

Should the Commission terminate this Agreement for convenience, it will allow Publisher to complete and sell publications previously authorized and commenced as of the date of notice of termination.

**9.3 Force Majeure.** Performance of any duty on the part of Publisher may be excused by the Commission in its sole discretion if it determines in writing that the performance of the specified duty was prevented by fire, strike, flood, war, act of God or other circumstance beyond the control of Publisher.

## **10. MISCELLANEOUS.**

**10.1 Term.** This Agreement shall take effect January 1, 1997, and shall remain in effect until December 31, 2001, unless terminated earlier pursuant to § 9 herein. The Commission retains an option to renew this Agreement on a year-to-year basis after December 31, 2001.

**10.2 Amendments.** This Agreement may be amended from time to time. All of such amendments shall be made in writing, and shall become effective only upon the approval of a majority of the Commission.

**10.3 Counterparts.** This Agreement may be executed in two (2) counterparts, each of which shall constitute an original, but both of which taken together shall constitute but one (1) instrument.

**10.4 Headings.** Section headings are for convenience only and shall not affect the interpretation or construction of this Agreement.

**10.5 Subscriber Information.** Publisher shall furnish the Commission on an annual basis with the number of subscribers in its possession to T.C.A. in any medium, together with a designation of the type of subscription. Publisher shall also furnish the Commission with a listing of persons receiving the state discount provided in § 5.3, on the request of the Executive Secretary. Publisher, upon notice by the Commission and within its sole discretion, shall transmit a list of all subscribers and their addresses to the Commission and/or any designee.

**10.6 Financial Responsibility.** Publisher shall submit satisfactory evidence to the Executive Secretary of its compliance with the required seven hundred fifty thousand dollar (\$750,000) performance bond.

**10.7 Marketing.** Publisher shall provide sales personnel within the State of Tennessee to market T.C.A.

Publisher shall market the T.C.A. with effective advertising and promotion of the publication.

**10.8 Subscriber Assistance.** Publisher shall maintain a toll-free telephone number at which T.C.A. subscribers can consult Publisher concerning billing, editorial, or indexing questions. Publisher shall also provide postage paid response/suggestion cards similar to those currently in use for the convenience of subscribers.

Publisher shall annually provide the Commission with a summary of problems reported to it concerning T.C.A.

**10.9. Duties Upon Termination or Expiration.** If this Agreement is terminated pursuant to § 9 herein or expires pursuant to § 10.1 herein, Publisher shall cooperate in any

transition to a successor publisher. In addition to the specific provisions regarding transfer of computer tape(s) in § 2.9, Publisher shall negotiate in good faith with any successor publisher for the transfer of any existing inventory and shall otherwise cooperate with the Commission concerning the transfer.

**10.10. Indemnification.** Publisher agrees to protect, indemnify, save and hold harmless the State and the Code Commission, all State departments, agencies, boards, and commissions, as well as officers, agents, servants, and employees of the State, from any and all claims, demands, expenses, and liability arising whether directly or indirectly out of the Contract, and from any and all costs, expenses, and attorneys' fees (including costs of work done by the Attorney General or his designees) incurred as a result of any claims, demand, lawsuit or cause of action.

The Commission shall give the Publisher written notice of such claim or suit, if the Commission is notified first, and full right and opportunity to conduct the Publisher's defense thereof; but the Commission does not hereby accord to the Publisher, through its attorneys, any rights to represent the State of Tennessee and State Departments, agencies, boards and commissions, as well as officers, agents, servants, and employees of the State, in any legal matter; such right being governed by T.C.A. § 8-6-106.

The State, its Departments, agencies, boards, and commissions, as well as its officers, agents, servants, and employees of the State, shall, at the option of the Attorney General, be represented by the Attorney General, his designee, or outside counsel selected by the Attorney General and the Publisher shall be responsible for all fees, costs and expenses associated with that representation.

**10.11. Audits.** Publisher shall maintain documentation of all charges against the State under this Contract. The books, records, and documents of the Publisher, insofar as they relate to work performed or money received under the Contract, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit at any reasonable time and upon reasonable notice, by the State or the Comptroller of the Treasury or their duly appointed representatives. These records shall be maintained in accordance with generally accepted accounting principles.

**10.12. Non-Discrimination.** No person on the grounds of handicap, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance under the Contract or in the employment practices of the Publisher. The Publisher shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination.

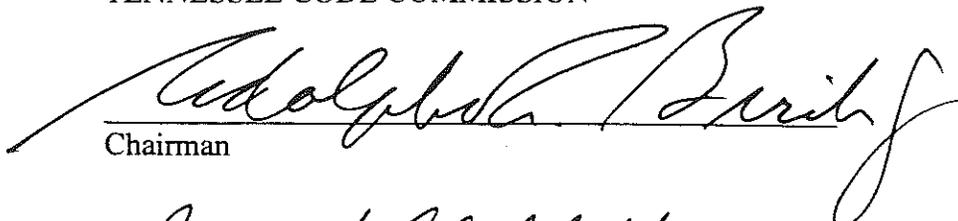
**10.13. Interpretation and Venue.** The Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. Any legal proceedings against the State regarding the Contract shall be brought in the State of Tennessee administrative or judicial forum with appropriate jurisdiction. Venue shall be in Davidson County, Tennessee.

**10.14. Prohibited Payments.** Publisher warrants that no part of the total Contract amount shall be paid directly or indirectly to an employee or an official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Publisher in connection with any work contemplated or performed relative to the Contract.

**10.15. Maximum Liability.** Notwithstanding any provision herein to the contrary, in no event is the State or Commission financially responsible to Publisher under this Contract.

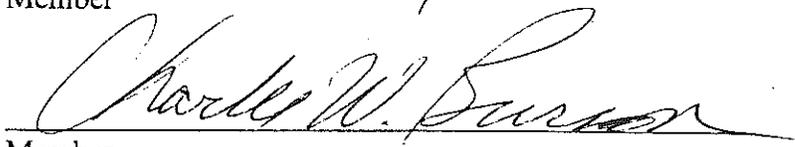
**IN WITNESS WHEREOF,** the Commission and Publisher have caused this Agreement to be duly executed and delivered in the City of Nashville by their duly authorized officers as of the date first aforementioned.

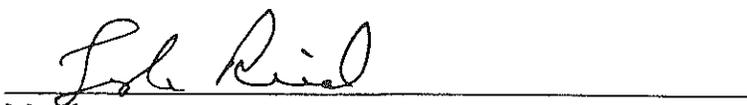
TENNESSEE CODE COMMISSION

  
Chairman

  
Executive Secretary

  
Member

  
Member

  
Member

MICHIE, A DIVISION OF REED ELSEVIER INC.

By: 

Its: Vice President & General Manager

**AMENDMENT TO AGREEMENT  
FOR PUBLICATION**

THIS AMENDMENT TO AGREEMENT FOR PUBLICATION ("Amendment"), made this 2nd day of February, 2005, by and between the Tennessee Code Commission and the Publisher, is an amendment to the Agreement for Publication ("Agreement") entered into by and between the Commission and the Publisher on the 11<sup>th</sup> day of December, 1996.

**WITNESSETH:**

1. The Agreement is amended to reflect the change in the corporate name of the Publisher from "Michie, a Division of Reed Elsevier, Inc." to "Matthew Bender & Company, Inc."

2. Section 2.5 of the Agreement ("CD-ROM"), is amended by adding that the Publisher shall: "(d) Provide the Office of Legal Services for the Tennessee General Assembly complimentary subscriptions to the online service of its affiliate LexisNexis for legal research by employees of the Office of Legal Services, in a number and manner reasonably agreeable to the Executive Secretary. Such subscriptions will be subject to LexisNexis normal terms of use."

3. Section 5.1 of the Agreement ("Setting of Prices") is amended by deleting the language of Section 5.1 in its entirety and by substituting instead the following:

**Section 5.1 Setting of Prices.** For the contract period beginning January 1, 2005 and ending on December 31, 2014, prices for each component of T.C.A. shall be as established in the schedule attached as Exhibit E unless the parties otherwise agree by amendment to the Agreement. For the contract period beginning on January 1, 2015 and thereafter, if the term of this Agreement is extended pursuant to Section 10.1, prices for each component of T.C.A. (e.g., supplements, replacement volumes, complete sets) will be established for each year of this Agreement by a letter from the Commission, each of which letters is incorporated herein. Prices for each year will be set by the Commission after consideration of an itemized request from Publisher which shall include information on prices of similar code components in other states from Publisher and other publishers, projected increases or decreases in the number of pages, or other requirements relevant to cost, industry cost changes as reflected in the Printing, Trades, Machinery and Equipment component of the Producer's Price Index as published by the U. S. Department of Labor, and any other nonconfidential, relevant information the Commission requests.

4. Section 5.2 of the Agreement ("Price Changes") is amended by deleting the language of Section 5.2 in its entirety and by substituting instead the following:

**Section 5.2 Price Changes.** For the contract period beginning January 1, 2005 and ending on December 31, 2014, the prices may be changed only in accordance with the schedule attached as Exhibit E unless the parties otherwise agree by amendment to the Agreement. Thereafter, if the term of this Agreement is extended pursuant to Section 10.1, price changes may be requested by Publisher or the Commission by October 31 of the year preceding the year the change takes effect. The Commission may, in its absolute and sole discretion, approve a price change initiated by either party. Notwithstanding any provision herein to the contrary, in the event the Commission approves, disapproves, or modifies a price change, then the Publisher is obligated to perform at the price approved by the Commission. The Publisher is required to provide the Commission with all relevant information relating to a price change.

5. Section 5.3 of the Agreement (“Purchases By Units of State Government”) is amended by deleting the language of Section 5.3 in its entirety and by substituting instead the following:

**5.3 Purchases By Units of State Government.** For the contract period beginning January 1, 2005 and ending on December 31, 2014, purchases by units of State Government may be made through one (1) or more state agencies, departments or officials. All of such sets of T.C.A. currently owned by all state agencies or acquired after the adoption of this amendment to the Agreement, not to exceed a total of 578 sets, shall be entitled to upkeep services without charge. The purchase price of all sets of T.C.A. purchased by units of State Government after the adoption of this amendment to the Agreement shall be \$100 per set of T.C.A. All such sets of T.C.A. purchased in excess of 578 sets shall be entitled to a fifty percent (50%) discount from the regular retail price of any replacement volume, supplement, or index thereto, or any ancillary publication. If Publisher questions a claim for discount, it may consult the Executive Secretary. Thereafter, if the term of this Agreement is extended pursuant to Section 10.1, purchases by units of State Government may be made through one (1) or more state agencies, departments or officials and all of such units shall be entitled to a twenty-five percent (25%) discount from the regular retail price of any set of T.C.A., replacement volume, supplement, or index thereto, or any ancillary publication. The Commission shall have the right of final determination as to whether a particular unit is entitled to the discount provided in the preceding sentence. If Publisher questions a claim for discount, it may consult the Executive Secretary.

6. Section 10.1 of the Agreement (“Term”) is amended by adding the following language at the end of the section: "The term of this Agreement is extended until December 31, 2014, unless terminated earlier pursuant to § 9 herein. The Commission retains an option to renew this Agreement on a year-to-year basis after December 31, 2014.



## AMENDMENT II TO AGREEMENT FOR PUBLICATION

13<sup>th</sup> THIS AMENDMENT II TO AGREEMENT FOR PUBLICATION ("Amendment II"), made this day of November, 2013, by and between the Tennessee Code Commission and the Publisher, is an amendment to the Agreement for Publication ("Agreement") entered into by and between the Commission and the Publisher on the 11<sup>th</sup> day of December, 1996, and the Amendment to Agreement For Publication ("Amendment") entered into by and between the Commission and the Publisher on the 2nd day of February, 2005.

### WITNESSETH:

1. Section 1.6 of the Agreement ("Annotations") is amended by adding the following sentence to the end of the paragraph:

No other references to cases shall be included.

2. Section 1.7 (a) of the Agreement ("References") is amended by deleting the language of Section 1.7 (a) in its entirety and by substituting instead the following:

(a) Continue collateral references to law reviews.

3. Section 2.5 (a) of the Agreement ("CD-ROM"), as amended by the Amendment to Agreement for Publication, is amended by adding the following sentence to the end of the paragraph:

Notwithstanding the immediately preceding sentence, if the number of paid Code CD-ROM subscribers falls below 20 ("twenty") in number, the Publisher may at its sole discretion discontinue production of the Code CD-ROM. Prior to discontinuing the Code CD-ROM publication, Publisher shall provide 60 days advance notice to the Executive Secretary and the then current subscribers.

4. Section 2.5 (d) of the Agreement ("CD-ROM" ), as amended by the Amendment to Agreement for Publication, is amended by deleting the language of Section 2.5 (d) in its entirety and by substituting instead the following:

Upon request of the Executive Secretary, provide the Office of Legal Services for the Tennessee General Assembly complimentary subscriptions to the online service of its affiliate LexisNexis for legal research by employees of the Office of Legal Services, in a number and manner reasonably agreeable to the Executive Secretary. Such subscriptions will be subject to LexisNexis normal terms of use.

5. Section 5.1 of the Agreement ("Setting of Prices") as amended by the Amendment to Agreement for Publication, is amended by deleting all of the language of Section 5.1 following the first sentence and by substituting instead the following:

For the contract period beginning January 1, 2015, and ending on December 31, 2019, prices for each component of T.C.A. shall be as established in the schedule attached as Exhibit F unless the parties otherwise agree by amendment to the Agreement. For the contract period beginning on January 1, 2020, and thereafter, if the term of this Agreement is extended pursuant to Section 10.1, prices for each component of the T.C.A. (e.g., supplements, replacement volumes, complete sets) will be established for each year of this Agreement by a letter from the Commission, each of which letters is incorporated herein. Prices for each year will be set by the Commission after consideration of an itemized request from Publisher which shall include information on prices of similar code components in other states from Publisher and other publishers, projected increases or decreases in the number of pages, or other requirements relevant to cost, industry cost changes as reflected in the Printing, Trades, Machinery and Equipment component of the Producer's Price Index as published by the U.S. Department of Labor, and any other nonconfidential, relevant information the Commission requests.

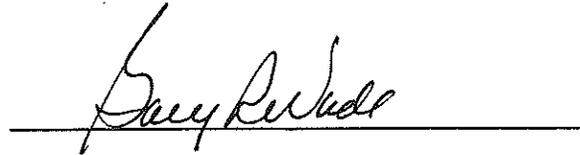
6. Section 5.2 of the Agreement ("Price Changes",) as amended by the Amendment to Agreement for Publication, is amended by deleting all of the language of Section 5.2 following the first sentence and by substituting the following:

For the contract period beginning January 1, 2015, and ending on December 31, 2019, the prices may be changed only in accordance with the schedule attached as Exhibit F unless the parties otherwise agree by amendment to the Agreement. Thereafter, if the term of this Agreement is extended pursuant to Section 10.1, price changes may be requested by Publisher or the Commission by October 31 of the year preceding the year the change takes effect. The Commission may, in its absolute and sole discretion, approve a price change initiated by either party. Notwithstanding any provision herein to the contrary, in the event the Commission approves, disapproves, or modifies a price change, then the Publisher is obligated to perform at the price approved by the Commission. The Publisher is required to provide the Commission with all relevant information relating to a price change.

7. Section 10.1 of the Agreement ("Term"), as amended by the Amendment to Agreement for Publication, is amended by deleting the last sentence of Section 10.1 and by adding the following language at the end of the section:

The term of this Agreement is extended until December 31, 2019, unless terminated earlier pursuant to Section 9 herein. The Commission retains an option to renew this Agreement on a year-to-year basis after December 31, 2019.

**TENNESSEE CODE COMMISSION**



Chief Justice Gary R. Wade, Chair



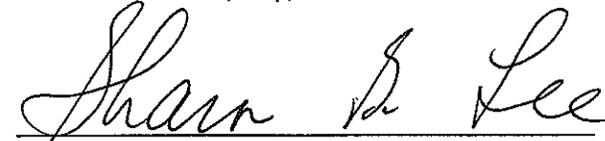
Joseph A. Barnes, Executive Secretary



The Honorable Robert E. Cooper, Jr., Member

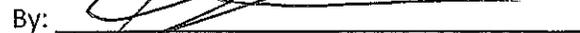


Susan Short Jones, Esq., Member



Justice Sharon G. Lee, Member

**MATTHEW BENDER & COMPANY, INC.**

By: 

Anders P. Ganten, Senior Director