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Sequence
 Number: 01-06-12
 Notice ID(s): 1727
 File Date: 01/10/2012

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Home Inspector Licensing Program
Contact Person:	Aminah Peay Saunders, Assistant General Counsel
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway, Nashville, Tennessee 37243
Phone:	615-741-3449
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Andrew Johnson Tower		
Address 2:	710 James Robertson Parkway, 2 nd Floor Conference Room		
City:	Nashville		
Zip:	37243		
Hearing Date :	March 8, 2012		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
0780-05-12	Home Inspectors
Rule Number	Rule Title
0780-05-12-.02	Definitions
0780-05-12-.04	Application Requirements
0780-05-12-.05	Renewal Requirements
0780-05-12-.06	Fees
0780-05-12-.07	Qualifying and Continuing Education
0780-05-12-.12	Inactive Status
0780-05-12-.13	Insurance
0780-05-12-.14	Records Retention
0780-05-12-.15	Change of Address

Chapter 0780-05-12
Home Inspectors

Amendments

Rule 0780-05-12-.02 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

In addition to the definitions contained in T.C.A. § 62-6-302, the following definitions are applicable to this chapter:

- (1) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;
- (2) "Continuing Education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal of a license as a home inspector;
- (3) "Home" or "Residence" means any structure consisting of one to four (1-4) dwelling units, intended to be or used principally for residential purposes;
- (4) "Inactive Licensee" means an individual who is not engaged in the business of conducting home inspections and holds a valid, current inactive license issued by the commissioner,
- (5) "Instructor" means an individual who presents course materials approved for qualifying education and continuing education credit hours that has the necessary experience, training or education in the course subject matter and has been approved by the commissioner;
- (6) "Licensee" means an individual who holds a current, unexpired license as a home inspector issued by the commissioner;
- (7) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (8) "Qualifying Education" means education that is creditable toward the education requirements required for initial licensure as a home inspector.

0780-5-12-.04 APPLICATION REQUIREMENTS is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) Beginning July 1, 2006, any person who desires to obtain a license as a home inspector shall submit an application to the commissioner, along with the required application fee.
- (2) An applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:
 - (a) Is at least eighteen (18) years of age;
 - (b) Has graduated from high school or earned a general education development ("GED") certificate;
 - (c) Has not been convicted of a felony or any other crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;
 - (d) Has successfully completed ninety (90) hours of education approved by the commissioner in the performance of home inspections and the preparation of home inspection reports;
 - (e) Has passed the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors (EBPHI).
 - (f) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and
 - (g) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.
- (3) Reciprocity. The commissioner may grant a license as a home inspector to an individual who holds a like, unexpired license in good standing as a home inspector in that state if the requirements for licensure are at least equivalent to the requirements for licensure in Tennessee. Such applicant shall file with the commissioner the required application form and fee, along with proof that the applicant holds a current, valid license as a home inspector in another state.
- (4) Temporary Practice Permit: An applicant for licensure as a home inspector whose spouse is an active member of the armed forces of the United States and is the subject of a military transfer to Tennessee may be granted a temporary practice permit for up to six (6) months to complete specific education and/or examination requirements where the state of original certification or licensure is not deemed to be substantially equivalent to the licensure requirements in Tennessee as specified in 0780-5-12-.04 (3).
 - (a) In addition to the requirements of 0780-5-12-.04 (1) & (2) Temporary Practice Permit applicants must provide:
 - (i) Evidence that the applicant is certified or licensed in another state to perform home inspections.
 - (ii) Evidence that applicant's spouse is a member of the armed forces and is the subject to a military transfer to Tennessee;
 - (iii) Affidavit that the applicant left home inspector employment to accompany the spouse to Tennessee.
- (5) The permit will expire six (6) months from the date of issuance or upon issuance of a license as a home inspector in Tennessee which ever may occur first.

- (6) No renewal of the temporary practice permit will be granted.
- (7) If a temporary practice permit holder's out-of-state license is revoked, suspended, denied renewal or restricted, then the Commissioner may revoke, suspend, or restrict a permit holder's temporary practice permit.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-305 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-5-12-.05 RENEWAL REQUIREMENTS is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) A license issued to a home inspector pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on such date unless renewed.
- (2) A home inspector may renew a current, valid license by submitting an application form approved by the commissioner, the required renewal fee, proof of having completed thirty-two (32) hours of commissioner-approved continuing education and any other information required for renewal, to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (3) If a course has been taken more than once during the same renewal period the hourly educational credit will be counted once for purposes of satisfying the educational requirements for renewal.
- (4) Credit shall not be granted for repeated course within a three (3) year time period unless the course has undergone a significant update.
- (5) A licensee who fails to pay the renewal fee, the applicable late penalty, or otherwise fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have sixty (60) days after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of \$25.00, submittal of proof of compliance with any other prerequisites to renewal, and payment of an additional late penalty of \$25.00 for each month or fraction of a month that renewal is late.
- (6) Any person seeking renewal of a license more than sixty (60) days after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure and submit proof of having completed thirty-two (32) hours of commissioner-approved continuing education within the previous two (2) years. In considering such reapplication, the commissioner has the discretion to:
 - (a) waive reexamination beyond the examination presented at the time of initial licensure if the exam was completed within the previous five (5) years; or
 - (b) reinstate a license subject to the applicant's compliance with such reasonable conditions as the commissioner may prescribe, including payment of a penalty fee, in addition to the penalty fee provided in paragraph (4), of not more than twenty-five dollars (\$25.00) per month or portion thereof from the date the license expired.
- (7) A fee submitted by mail to the Commissioner for purposes of renewal will be deemed to have been submitted on the date of the official postmark.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-307[effective July 1, 2006]; and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.06 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following so that as amended the rule shall read:

- (1) Non-refundable application fee is one hundred dollars (\$100.00).
- (2) Initial license fee is two hundred dollars (\$200.00).
- (3) The examination fee shall be set by the entity designated by the State to administer the examination.
- (4) Renewal fee is two hundred dollars (\$200.00).
- (5) The late penalty fee is twenty-five dollars (\$25.00) per month for each month or fraction of a month that renewal is late.
- (6) Application fee to place the license in inactive status is fifty dollars (\$50.00).
- (7) Renewal fee for license while in inactive status is fifty dollars (\$50.00).
- (8) Application fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (9) Renewal fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (10) Application for individual course approval is twenty-five dollars (\$25.00).

Authority: T.C.A. §§ 62-06-303 and 62-06-307 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-5-12-.07 QUALIFYING AND CONTINUING EDUCATION is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) Course approval requirements.
 - (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit to the commissioner any documents, statements and forms as the commissioner may require. The complete application shall be submitted to the commissioner no later than thirty (30) days prior to the scheduled date of the course. At a minimum, a person or entity seeking approval to conduct a course for qualifying or continuing education shall provide:
 1. Name and address of the provider;
 2. Contact person and his or her address, telephone number, fax number and email address;
 3. Name of course as it will appear on course certificates;
 4. The location of the courses or programs;

5. The number and type of education credit, qualifying or continuing, hours requested for each course;
 6. A timed outline which lists the summarized topics covered in each course and upon request a copy of any course materials;
 7. If a prior approved course has substantially changed, a summarization of the changes; and
 8. The names and qualifications of each instructor who is qualified in accordance with paragraph (2) of this rule.
- (b) Acceptable topics include, but are not limited to:
1. Observing and identifying defects in structural components, foundations, roof coverings;
 2. Insulation and ventilation;
 3. Exterior and interior components;
 4. Plumbing, heating, cooling and electrical systems;
 5. Applicable state laws and rules;
 6. Home Inspection business management.
 7. Home Inspector Ethics
 8. Tennessee Standards of Home Inspector Practice
 9. Home Inspection Report Writing
- (c) Course hour is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.
- (d) In addition to accepting courses approved as described in this rule, qualifying and continuing education credits may be granted on an individual basis to an applicant or licensee if the applicant or licensee provides documentation acceptable to the commissioner that shows that the courses meet applicable requirements for the category of credit applied for, including proof that the applicant or licensee attended and successfully completed the course. To be considered for credit, the prescribed form must be received along with a fee of twenty-five dollars (\$25.00) fee per course.
- (e) The commissioner may withhold or withdraw approval of any provider for violation of or failure to comply with any provision of this rule. Such withholding or withdrawal does not constitute a contested case proceeding pursuant to the Uniform Administrative Procedures Act compiled at T.C.A. Title 4, Chapter 5.
- (f) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the commissioner. Such person or entity may indicate that the commissioner has approved a course of study if that course of study has been pre-approved by the commissioner before it is advertised or held.
- (g) Within five (5) working days after the completion of each course, the provider shall submit to the commissioner a list of all attendees, including, if applicable, the attendees' license

numbers, who completed the course on the course completion form approved by the commissioner. If the course is for continuing education, each licensee successfully completing the course shall be furnished a certificate certifying completion.

- (h) Providers shall maintain course records for at least five (5) years. The commissioner may at any time examine such records to ensure compliance with this rule.
 - (j) Approval of any course(s) may be withdrawn by the Commissioner if:
 - (i) The conduct of a provider, an instructor, or any other school representative in either the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;
 - (ii) The course content is based on excluded conduct of a home inspector as identified in 0780-5-12-.10.
 - (k) The required fee from a course provider for approval of courses for qualifying or continuing education shall be fifty dollars (\$50.00) for each course. The application fee is non-refundable.
 - (l) Course approval shall be valid from the date of approval and shall be renewed biennially thereafter.
 - (m) The provider of an approved course who wishes to renew such approval shall submit an application, on a form approved by the Commission, along with a renewal fee of fifty dollars (\$50.00) for each course, within thirty (30) days prior to the approval's expiration.
 - (n) If a provider fails to renew course approval within thirty (30) days of the approval's expiration date, the provider may, upon payment of a twenty-five dollar (\$25.00) penalty, apply for a late renewal. No late renewals or course approval will be granted if over three (3) months have passed since expiration.
 - (o) State universities, colleges and junior colleges which provide courses for qualifying or continuing education shall be exempt from the fee.
- (3) Instructor qualifications and requirements. A person seeking approval as an instructor shall submit an application on a form approved by the commissioner. If granted, the approval as an instructor shall be valid for a period of two (2) years from the date of the approval.
- (a) An instructor shall have one of the following qualifications:
 1. Three (3) years of recent experience in the subject matter being taught; or
 2. A minimum of an associate's degree in the subject area being taught; or
 3. Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.
 4. Other educational, teaching or professional qualifications determined by the commissioner which constitute an equivalent to (1) or more of the qualifications in parts (2)(a)1., 2., and 3. of this rule.

- (b) In order to maintain approved status, an instructor shall furnish evidence on a form approved by the commissioner that the instructor has taught a commissioner-approved course, or any other course for qualifying or continuing education credit that the commissioner determines to be equivalent, within the preceding two (2) year period. Any instructor who does not meet their requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.
- (4) In order to renew a license, and in addition to any other renewal requirements, the licensee shall submit to the commissioner a log, on a form provided by the commissioner, showing the type(s) of continuing education activity claimed, provider, location, duration, instructor's or speaker's name, description of the activity and continuing education units earned, along with the completion certificate(s) furnished by the provider. A licensee shall submit the log and the completion certificate(s) to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (5) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a home inspector in the licensee's resident state, the licensee will be deemed to have met the continuing education requirement for Tennessee; provided, the continuing education requirements in the licensee's resident state are at least equivalent to the continuing education requirements in Tennessee. In order for the licensee to be deemed to have met the requirement, the licensee must file with the license renewal a certificate from the licensee's resident state certifying that the licensee has completed the continuing education requirement for licensure in that state. The certificate from the licensee's resident state verifying compliance with continuing education in the resident state must be received by the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.

Authority: T.C.A. §§ 62-6-303(a)(4), (5) and 62-6-307 [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Chapter 0780-05-12
Home Inspectors

New Rules

Rule 0780-05-12-.12 Inactive Status
Rule 0780-05-12-.13 Insurance
Rule 0780-05-12-.14 Records Retention
Rule 0780-05-12-.15 Change of Address

Rule 0780-05-12-.12 Inactive Status

- (1) A licensee may request inactive license status by making application to the Commissioner and paying the applicable fifty dollar (\$50.00) fee. A licensee whose license is in inactive status may not directly or indirectly engage in conduct or advertise or claim to be engaging in or conducting the business or acting in the capacity of a home inspector as defined in T.C.A. § 62-6-302. No continuing education shall be required for renewal of an inactive license. Licensees holding an inactive license are not required to maintain general liability or errors and omissions insurance.
- (2) To reactivate an inactive license, licensee shall submit an application for reinstatement on a form as prescribed by the commissioner, accompanied by:

- (a) A reactivation fee of two hundred dollars (\$200.00);
 - (b) A certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and errors and omissions insurance to cover all home inspection activities contemplated in T.C.A. § 62-6-301 et seq. and the rules promulgated thereunder, and
 - (c) A sworn statement that the licensee has not violated any provisions of the Tennessee Home Inspector Licensing Act of 2005, (T.C.A. 62-6-301, et seq.) or the rules promulgated thereunder while the applicant's license was in inactive status.
- (3) The licensing period for an inactive license shall be identical to the licensing period for the originally issued active license. Inactive licenses shall be renewed biennially.

Authority: T.C.A. § 62-06-307 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.13 Insurance

- (1) All licensees, except those in inactive status, are required to maintain and provide satisfactory proof of a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301
- (2) Licensees shall notify the Board within thirty (30) days of any change to the insurance policy, including but not limited to the expiration or termination of a policy, changes in insurance carrier, term of policy, or coverage dates.

Authority: T.C.A. §§ 62-06-303 and 62-06-308 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.14 Records Retention

All licensed home inspectors shall retain original and true copies or electronic copies of all written contracts and agreements for home inspector services and all home inspection reports for a period of at least three (3) years commencing on the date the report was provided to the client.

Authority: T.C.A. § 62-6-303 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.15 Change of Address

All licensed home inspectors shall provide the Commissioner with any address change in writing within thirty (30) days of any change.

Authority: T.C.A. § 62-06-306 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: January 10, 2012

Signature: *Aminah P. Saunders*

Name of Officer: Aminah Peay Saunders

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: *JAN. 10, 2012*

Notary Public Signature: *Linda L. Black*

My commission expires on: *5/6/2012*



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Filed with the Department of State on: *01/10/2012*
Tre Hargett

Tre Hargett
Secretary of State

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