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Sequence Number: 02-03-11  
 Rule ID(s): 4904  
 File Date: 02/01/2011  
 Effective Date: ~~05/02/2011~~

05/17/2011

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	State Board of Equalization
<b>Division:</b>	
<b>Contact Person:</b>	Kelsie Jones, Executive Secretary
<b>Address:</b>	Ste. 1700, 505 Deaderick St., Nashville, TN
<b>Zip:</b>	37243-1402
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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. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0600-06	Agent Registration Program
Rule Number	Rule Title
0600-06-.03	Processing and Consideration of Agent Registrations
0600-06-.07	Reciprocity
0600-06-.08	Continuing Education

**Substance of rule amendments:**

Rule 0600-06-.03 would be amended by substituting the word "biannually" for the word "annually" in paragraph (1).

Rule 0600-06-.03 would be further amended by substituting the language "in the amount provided by law" for the language "of \$100" wherever they appear in paragraph (2).

Rule 0600-06-.03 would be further amended by deleting the first sentence in part 3 of subparagraph (3)(b), and by substituting instead the following:

The applicant shall also present evidence of successful completion of the comprehensive examination required of candidates for the Tennessee Certified Assessor designation.

Rule 0600-06-.03 would be further amended by deleting in their entirety the second and third sentences in subparagraph (3)(c).

Chapter 0600-06 would be amended by adding the following new rule:

Rule 0600-06-.07 Reciprocity. An applicant may qualify by reciprocity in the manner permitted by Tenn. Code Ann. §67-5-1514(k). Suspension or revocation of registration due to nonqualification shall be subject to appeal in the manner provided in §67-5-1514(f) and these rules.

Chapter 0600-06 would be amended by adding the following new rule:

Rule 0600-06-.08 Continuing education. As a prerequisite to renewal of an agent registration the agent shall present evidence satisfactory to the Board of having obtained, during the renewal period, education consisting of at least twenty (20) classroom hours of instruction approved by the Panel and the Board. Courses for which continuing education credit is recognized by the Tennessee Real Estate Appraiser Commission shall qualify for credit under this rule. Suspension or revocation of registration due to noncompliance with this rule shall be subject to appeal in the manner provided in §67-5-1514(f) and these rules.

Authority: T.C.A. §§67-1-305 and 67-5-1514.

Legal Contact:

Kelsie Jones, Executive Secretary  
State Board of Equalization  
Ste. 1700 – 505 Deaderick Street  
Nashville, TN 37243-0280  
615/532-7160

Contact for disk acquisition: Kelsie Jones

The roll call vote by the Board on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Hargett	x			
Button	x			
Odubeko				x
Trost	x			
Mitchell	x			
Wilson	x			
Lillard				x

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 10/15/10 and is in compliance with the provisions of TCA 4-5-222.

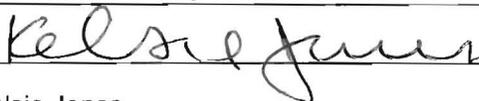
I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 7/30/10

Notice published in the Tennessee Administrative Register on: \_\_\_\_\_

Rulemaking Hearing(s) Conducted on: 9/27/10

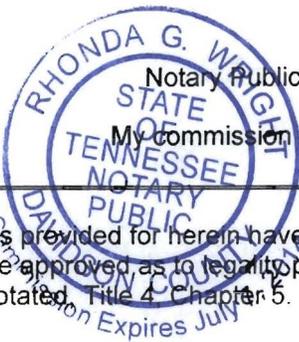
Date: 10/28/10

Signature: 

Name of Officer: Kelsie Jones

Title of Officer: Executive Secretary

Subscribed and sworn to before me on: October 28, 2010



Notary Public Signature: Rhonda G. Wright

My commission expires on: July 7, 2014

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

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.  
Attorney General and Reporter

1-24-11

Date

**Department of State Use Only**

Filed with the Department of State on: 2/1/11

Effective on: ~~5/2/11~~ 05/17/2011

Tre Hargett

Tre Hargett  
Secretary of State

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## **Public Hearing Comments**

The Board received one comment, requesting that appraiser certification under the state appraiser licensing law (TCA §62-3901 et seq.) be acceptable in lieu of proof of continuing education. The rules adequately address this concern by crediting continuing education recognized for appraiser certification purposes.

## **Impact on Local Governments**

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

These rule amendments have no financial impact on local governments.

### **Regulatory Flexibility Addendum**

Pursuant to TCA §4-5-401 et seq., the Board has reviewed these amendments for their impact on small business and determined the impact would be negligible. This conclusion is based on the following findings or assumptions:

- (1) Rule 0600-06-.08 implements a statute authorizing continuing education requirements for taxpayer agents.
- (2) Small businesses potentially affected by the continuing education requirement as consumers of agent services generally pay for these services on a contingent fee basis that reflects tax savings rather than covering a cost plus return to the agent. Such businesses would benefit from agents who receive continuing education.
- (3) Agents as small businesses would be required to defray the cost of continuing education, but these agents generally already incur these costs as part of independent appraiser certification requirements.
- (4) Most agents are independently certified and are familiar with necessary record keeping.
- (5) The Board has considered agent and public comments and determined no less intrusive or burdensome method exists to achieve the desired effect of assuring registered agents are equipped with current training.
- (6) Exemption of small businesses would defeat the purpose of assuring registered agents are equipped with current training.

## **Additional Information Required by Joint Government Operations Committee**

The following information is submitted in compliance with Tenn. Code Ann. §4-5-226:

### **(A) Brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule.**

These rule amendments essentially codify legislative amendments to the authorizing statute, including:

Providing biennial rather than annual registration (.03).

Conforming fee to amended statute (.03).

Requiring applicants generally to pass a qualifying exam (.03).

Eliminating an id. card requirement (.03).

Providing for registration by reciprocity, and for continuing education. (.07, .08).

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

No federal law. State law is Tenn. Code Ann. §67-5-1514.

### **(C) Identification of persons, organizations, corporations or governmental entities most directly affected by the rule, and whether the aforementioned urge adoption or rejection of the rules.**

The rules affect primarily taxpayer agents seeking state registration to appear in appeals to the State Board of Equalization, and indirectly their customer/clients. The only commenter generally supported the rules but urged a minor revision.

### **(D) Identification of any opinions of the Attorney General and Reporter or any judicial ruling which directly relates to the rules.**

None.

### **(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based.**

None. Biennial registration at a new fee amount is already required under the statute.

### **(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rules.**

Kelsie Jones, Executive Secretary  
State Board of Equalization  
Ste. 1700, 505 Deaderick St.  
Nashville, TN 37243-1402  
615-747-5379

### **(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees (including address and telephone number).**

Same as above.

### **(H) Contact information**

Same as above.

(l) Additional information relevant to the rules will be provided upon request of the committees or committee staff.

CHAPTER 0600-03 AGENT REGISTRATION, AMENDMENTS ADOPTED 10-15-10

'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226 (i):

**0600-6-.03 PROCESSING AND CONSIDERATION OF AGENT REGISTRATIONS.** The following procedures shall apply to registration of taxpayer agents under T.C.A. §67-5-1514:

(1) Applications. Applicants for registration shall submit an application on a form approved by the state board specifying whether they claim qualification by attainment of the program education and experience requirements, or by attainment of a recognized professional appraisal designation. Applications for renewal of registration shall be filed ~~annually~~ biannually on the approved form on or before June 30.

(2) Application fees. Applications for initial registration shall be accompanied by a registration fee of ~~\$100~~ in the amount provided by law. Applications for annual renewal of registration shall be accompanied by a renewal fee of ~~\$100~~ in the amount provided by law. Fees shall be paid by bank draft or money order in U.S. funds. Cash will not be accepted.

(3) Applications - accompanying information

(a) Applicants by professional appraisal designation. Applicants for approval based on attainment of a professional appraisal designation shall include in their application, identification of the claimed designation, the designating organization, and any numbers or symbols used by the organization in identifying the applicant as a designee. The designation must be currently approved by the board and the applicant must maintain the designation throughout the renewal year for which application is made, which is the period beginning July 1 of the tax year for which the agency is exercised and extending until June 30 of the following year.

(b) Applicants by education and experience. Applicants for approval based on education and experience shall meet the following criteria:

1. Experience. Applicants shall identify the period of time for which experience is claimed, the companies for which the applicant was employed or the business names under which the applicant obtained relevant experience, the nature of work performed, samples of appraisal or assessment work, and the names of persons supervising the applicant's appraisal or assessment work or otherwise familiar with the applicant's appraisal or assessment work. The applicant shall provide such additional evidence as may be reasonably required by the Board staff to verify experience consistent with the statutory standard.

2. Education. Applicants shall submit an official transcript from colleges or universities attended, identifying thereupon courses of instruction, credit hours, and course grades for which education credit is claimed. Where credit is claimed for courses from an approved assessment or appraisal organization, the applicant shall identify the course names and organizations, and provide with the application certificates of completion, pass/fail forms, grade report forms, or letters noting the applicant's successful completion of the courses. Upon request, the applicant shall provide such additional information as may reasonably be required to permit evaluation of courses against the statutory standard.

3. T.C.A. Exam. ~~In lieu of the education requirements set forth in paragraph 2 above, the applicant may~~ The applicant shall also present evidence of successful completion of the comprehensive examination required of candidates for the Tennessee Certified Assessor designation. Applicants may take the examination whether or not they meet other

prerequisites for the T.C.A. designation, but the designation itself shall be awarded only upon attainment of all prerequisites otherwise provided.

(c) Review of applications. Registration staff shall review all applications against the criteria provided by law. ~~Successful applicants will be registered as qualified agents and will be provided a registration card to be presented upon request of the board or administrative judge hearing an appeal. Registration cards remain the property of the State Board of Equalization and must be returned upon lapse or invalidation of the registration.~~

(d) Denial of registration - disciplinary action. Registration or renewal of registration may be denied any applicant who fails to meet the statutory criteria or who fails as an applicant by designation to present evidence of a current recognized designation. Registration shall be revoked if the registrant ceases to qualify under the approval criteria. Registration may be revoked or suspended, or a reprimand issued in the discretion of the board or panel, if the registrant commits any disciplinary offense specified in the registration law, or for violation of any standard of conduct approved by the board or panel. In determining whether to impose revocation or a lesser discipline, the board or panel will consider the willfulness of the offense, previous related offenses, and the extent of harm to the public or the appeals process. Disciplinary action shall occur only after written notice to the registrant specifying the reasons and after an opportunity has been given to the registrant to be heard. Disciplinary actions shall be appealable in the manner provided in the agent registration act.

#### **[NEW RULES**

Rule 0600-06-.07 Reciprocity. An applicant may qualify by reciprocity in the manner permitted by Tenn. Code Ann. §67-5-1514(k). Suspension or revocation of registration due to nonqualification shall be subject to appeal in the manner provided in §67-5-1514(f) and these rules.

Rule 0600-06-.08 Continuing education. As a prerequisite to renewal of an agent registration the agent shall present evidence satisfactory to the Board of having obtained, during the renewal period, education consisting of at least twenty (20) classroom hours of instruction approved by the Panel and the Board. Courses for which continuing education credit is recognized by the Tennessee Real Estate Appraiser Commission shall qualify for credit under this rule. Suspension or revocation of registration due to noncompliance with this rule shall be subject to appeal in the manner provided in §67-5-1514(f) and these rules.