

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

For Department of State Use Only

Sequence Number: 03-21-16
 Rule ID(s): 6160
 File Date: 3/28/16
 Effective Date: 6/29/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Locksmith Licensing Program
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	Ashley N. Thomas, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-3072
Email:	ashley.thomas@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0780-05-13	Locksmiths
Rule Number	Rule Title
0780-05-13-.02	Definitions
0780-05-13-.03	Application for License or Registration
0780-05-13-.04	Application Requirements
0780-05-13-.05	Renewal of Licenses and Registrations
0780-05-13-.08	Experience
0780-05-13-.09	Continuing Education and Programs
0780-05-13-.10	Qualifying and Continuing Education Providers
0780-05-13-.11	Civil Penalties
0780-05-13-.12	Submission of Information
0780-05-13-.14	Code of Conduct
0780-05-13-.16	Reciprocity

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0780-05-13
Locksmiths
Repeal/New

Table of Contents

0780-05-13-.01	Purpose	0780-05-13-.11	Civil Penalties
0780-05-13-.02	Definitions	0780-05-13-.12	Submission of Information
0780-05-13-.03	Application for License Registration	0780-05-13-.13	Standards of Practice
0780-05-13-.04	Application Requirements	0780-05-13-.14	Code of Conduct
0780-05-13-.05	Renewal of Licenses and Registrations	0780-05-13-.16	Reciprocity
0780-05-13-.08	Experience		
0780-05-13-.09	Continuing Education and Programs		
0780-05-13-.10	Qualifying and Continuing Education Providers		

Rule 0780-05-13-.02 Definitions is repealed in its entirety and substituting instead the following so that, the new rule shall read:

- (1) "Access control" means any barrier or device, which limits or prohibits free or unlimited access; however, for the purpose of this chapter, "access control" may mean any "stand-alone" mechanical, electro-mechanical, or electronic locking device that is not part of an integrated system. Nothing in this chapter shall exempt any licensed locksmith from complying with all licensing requirements for alarm contracting;
- (2) "Automotive work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or electrical locking device for controlled access to vehicles;
- (3) "Branch office" means any physical location that is not the primary place of business at which a locksmith or apprentice conducts any activity relative to locksmithing services, including but not limited to offices where administrative and/or other locksmith business function is performed. The only exceptions are warehouse facilities which are utilized solely for storage purposes and locations that are not accessible to the general public which have no signage, advertising or other outward indication to the public that the licensing locksmith company conducts its primary business at that location.
- (4) "Commissioner" means the commissioner of commerce and insurance;
- (5) "Continuing education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal or a license as a locksmith;
- (6) "Conviction" means and includes the entry of a plea of guilty, plea of no contest or a verdict rendered in open court by a judge or jury;
- (7) "General locksmithing" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing locks or other devices for access to structures or personal property;
- (8) "Good moral character" means an individual with high legal, moral and ethical values, and the following shall be prima facie evidence that an individual does not have good moral character:
 - (a) Conviction by any local, state, federal or military court of any crime involving the illegal sale, manufacture, distribution or transportation of a controlled substance, drug, or narcotic;

- (b) Conviction of a crime involving felonious assault;
 - (c) Conviction of a crime involving unlawful breaking or entering, burglary, larceny or arson;
 - (d) Conviction as a habitual criminal;
 - (e) An addiction to alcohol or a narcotic drug;
 - (f) Discharge from the armed forces under dishonorable conditions; or
 - (g) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(33);
- (9) "Instructor" means an individual who presents course materials approved for qualifying education and continuing education hours;
 - (10) "Licensee" means an individual who holds a current, unexpired license as a locksmith issued by the commissioner;
 - (11) "Locksmith company" means any person or entity engaging in the business of providing or undertaking to provide locksmithing services for another person;
 - (12) "Locksmith student" means an individual who is enrolled in a locksmith training program pursuant to Rule 0780-05-13-.07;
 - (13) "Locksmith training program" means a course or courses or an apprenticeship program given in preparation for licensure as a locksmith;
 - (14) "Master key system" means any keying arrangement which has two or more levels of keying;
 - (15) "Motor vehicle" shall have the same meaning as set forth in T.C.A. § 55-17-102(15);
 - (16) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
 - (17) "Permanent, fixed business location" means an office, office building or dwelling submitted to the commissioner as the locksmith company's principal place of business. Mail boxes and mail drop addresses may not be used as a primary place of business or as a branch office.
 - (18) "Person" means an individual, firm, association, governmental entity, or other legal entity;
 - (19) "Qualifying agent" means any person licensed by the commissioner as a locksmith who is immediately responsible for the operation of a principal office or any branch office;
 - (20) "Qualifying education" means education that is creditable toward the education requirements for initial licensure as a locksmith;
 - (21) "Registrant" means an individual who holds a current, unexpired registration as a locksmith apprentice issued by the commissioner or a company that holds a current, unexpired registration as a locksmith company issued by the commissioner;
 - (22) "Safe and vault work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or electrical locking device for controlled access or egress to safes, vaults, safe doors, lock boxes, automatic teller machines, or other devices for safeguarding areas;
 - (23) "Structure" means any building or improvement and its components, systems, fixtures and appurtenances;

- (24) "Timely renewal" means that all documentation and fees required for the renewal have been received by the commissioner prior to the expiration of the locksmith license or registration.

Authority: T.C.A. § 62-11-106.

Rule 0780-05-13-.03 Application for License or Registration is amended so that paragraphs (1), (2)(a), (2)(c)-(g), (3), (4), and (5) read as set forth below, except that the paragraph (3)(b) shall be renumbered as paragraph (2)(b):

- (1) Any person who seeks to be licensed as a locksmith in any category, registered as an apprentice locksmith, or registered as a locksmith company shall complete an application on a form prescribed by the Commissioner and submit the completed application to the Commissioner. Such applications for licensure or registration are available upon request from the Commissioner. All fees associated with initial licensure and subsequent renewals are non-refundable.
- (2) All applications for licensure or registration shall be submitted on the form prescribed by the commissioner for this purpose and shall be accompanied by the following supporting documents:
 - (a) A copy of at least one (1) of the following valid forms of identification:
 1. A driver's license or non-driver's I.D. issued by the State Department of Motor Vehicles; or
 2. A valid passport; or
 3. A resident alien card; or
 4. A license or permit issued by a government agency; or
 5. If the applicant is a city, state, or federal employee, an employee identification card.
 - (c) Any applicant disclosing any citations, arrests, convictions, or any other documented activity associated with criminal behavior, whether involving a military crime or a state or federal misdemeanor or felony, must provide a written explanation of the episode, and any associated documentation in support thereof. Failure to provide this written information will result in an incomplete application and will cause the application to not be processed.
 - (d) Two (2) color frontal photographs of the applicant's face taken within the preceding three (3) months, the size of which must be one (1) inch by one (1) inch and must include the applicant's name and the last four (4) digits of the applicant's social security number on the back of each photograph.
 - (e) All applications for a locksmith company registration shall also include the following:
 1. The address of the permanent, fixed business location of the firm and location of all branch offices as well as the licensed locksmith for each office. A mail drop box address is not acceptable as a physical location for any kind of office;
 2. Evidence of general liability insurance and insurance coverage as set forth in T.C.A. § 62-11-108; and
 3. A payment in the amount of the application fee as set forth in Rule 0780-05-13-.06.
 4. Copies of a locksmith company's current business license(s) in all applicable city and county jurisdictions within Tennessee.
 - (f) Applicants for licensure or registration under this chapter shall be of good moral character as defined by Rule 0780-05-13-.02(8).

- (3) Any application submitted which lacks required information or reflects a failure to meet any requirement for licensure or registration will be held by the program office with written notification that the information is lacking or the reason(s) the application does not meet the requirements for licensure sent to the applicant. The application will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed ninety (90) days from the date of application. If the applicant fails to respond to the written notification, the application will be closed and the applicant must reapply.
- (4) Any application submitted may be withdrawn; provided, however all fees associated with the application and initial licensure are nonrefundable.
- (5) Any partnership, association, company or corporation seeking initial registration as a locksmith business shall be placed on probationary licensure status for a period of two years from the date of the issuance of the registration.
 - (a) Such probationary status may include such reasonable terms and conditions for the issuance and maintenance of a locksmith business registration as the commissioner determines to be reasonably necessary. Such probationary requirements may include, but are not limited to:
 - 1. Acquiring a bond in an amount determined to be necessary by the commissioner for the protection of the public;
 - 2. Providing reports to the commissioner regarding the company's activities as a locksmith company; or
 - 3. Such other requirements determined to be reasonably necessary by the commissioner.
 - (b) A licensee's probationary status may be considered by the commissioner in the assessment of discipline for any acts, conduct, or other disciplinary violations occurring during the probationary period.
 - (c) No locksmith business registrant shall violate the terms and conditions of its probation.

Authority: T.C.A. §§ 62-11-104, -106, -111, and -112.

Rule 0780-05-13-.04 Application Requirements is repealed in its entirety and substituting instead the following so that, the new rule shall read:

0780-05-13-.04 Application Requirements

- (1) Any person who desires to obtain a license as a locksmith in any category or a registration as a locksmith company shall submit an application to the Commissioner, along with the required application and license fee, provided that the applicant meets the requirements set forth in T.C.A. § 62-11-111(a) and (b) and demonstrates to the satisfaction of the Commissioner not less than two (2) years' experience in the locksmithing business, or an equivalent amount of certified education or apprenticeship.
- (2) Any person who desires to obtain a license as a locksmith in any category, a registration as an apprentice locksmith, or a registration as a locksmith company shall submit an application to the Commissioner, along with the required application and license fee and shall comply with T.C.A. §§ 62-11-111 or 62-11-112.
- (3) Applications will not be considered complete until the applicable fee prescribed in these rules is received.

Authority: T.C.A. §§ 62-11-106, -111, and -112.

Rule 0780-05-13-.05 Renewal of Licenses and Registrations paragraph (5) is amended by adding the words "and documentation" after the word "fee." Paragraph (5) is further amended by deleting the word "is" and substituting the word "are." The rule is further amended to add paragraphs (6) and (7) so that, as amended, the rule shall read:

- (1) Licenses and certificates of registration shall expire on the last day of the twenty-fourth (24th) month following their issuance or renewal, and shall become invalid on such date unless renewed.
- (2) Renewal must be received in the office of the Commissioner not less than thirty (30) days nor more than sixty (60) days prior to the expiration of a license or certificate.
- (3) Licenses and registrations granted shall be staggered in accordance with T.C.A. § 56-1-302(b).
- (4) An individual or company choosing not to renew his, her or its license or registration shall notify the Commissioner of his, her or its intention prior to the expiration of that license or registration, and shall surrender the license or registration to the Commissioner immediately upon its expiration.
- (5) Applications for renewal of licenses and registrations pursuant to the Act shall be made on a form provided by the Commissioner. Applications for renewals will not be considered complete until the applicable fee and documentation prescribed in these rules are received.
- (6) Any locksmith licensee or registrant who does not submit all required documentation and fees within ninety (90) days of the expiration date of the license or registration must reapply.
- (7) A late fee will be assessed on any incomplete renewal application which is not completed prior to the expiration of the current license or registration.

Authority: T.C.A. §§ 62-11-106, -111, and -112.

Rule 0780-05-13-.08 Experience is amended by deleting the text of the Rule in its entirety and substituting instead the following so that, as amended, Rule 0780-05-13-.08 shall read:

- (1) An applicant seeking licensure as a locksmith under any locksmithing category shall demonstrate to the satisfaction of the Commissioner not less than two (2) years' experience in the locksmithing business, or an equivalent amount of certified education or apprenticeship.

Authority: T.C.A. § 62-11-106.

Rule 0780-05-13-.09 Continuing Education and Programs is repealed in its entirety and substituting instead the following so that, the new rule shall read:

0780-05-13-.09 Continuing Education and Programs

- (1) As a prerequisite to renewal, a licensee shall obtain twelve (12) hours of continuing education for each biennial renewal period, two (2) of which shall be dedicated to life safety.
- (2) In order to qualify for credit toward satisfaction of the continuing professional education requirements of T.C.A. § 62-11-106(7), the continuing education program must be a formal program of learning which contributes directly to the professional competence of the licensee.
- (3) Formal programs requiring attendance may only be considered if:
 - (a) an outline is prepared and preserved;
 - (b) the unit program is at least one (1) hour (1 credit hour = 50 minutes) in length;

- (c) the program is conducted by a qualified instructor or lecturer; and
 - (d) a record of registration and attendance is maintained and certified by the signatures of an authorized representative of the organization sponsoring the program.
- (4) Subject to compliance with paragraphs 1 and 2 of this rule, the following are deemed to be qualifying programs:
- (a) University or college courses provided that:
 - 1. successful completion of a semester or quarter length course will satisfy the continuing professional education requirement for the year in which it is taken; and
 - 2. the courses are relevant to the locksmith industry.
 - (b) Programs of locksmith associations and organizations recognized by the Commissioner.
 - (c) Formal correspondence and other individual study programs which require registration and provide evidence of satisfactory completion may qualify for continuing education credit in an amount to be determined by the Commissioner.
- (5) Continuing education credit will be allowed for service as an instructor or speaker at any program for which participants are eligible to receive continuing education credit. Credit for such service shall be allowed on the first presentation only, unless the program has been substantially revised. One (1) hour of instruction will equal one (1) hour of continuing education.
- (6) Any program of continuing education not specifically mentioned by this rule may be submitted to the Commissioner for evaluation and approval.
- (7) The Commissioner specifically reserves the right to approve or disapprove credit for continuing education claimed under this rule.
- (8) Each attendee shall be provided a certificate of completion to be submitted with their renewal application.
- (9) No carryover of hours from renewal period to the next renewal period is permitted.
- (10) The Commissioner may, upon written request, extend the time within which a licensee must comply with the requirements of this chapter for reasons of poor health, military service, or other reasonable and just causes.
- (11) Any licensee who requests and is granted an extension of time under this rule shall remain subject to the provisions of this chapter and shall note such extension on any report or correspondence thereafter submitted until such time as the extension and reason for it are no longer pertinent.
- (12) Each extension of time granted by the Commissioner shall be reviewed every six (6) months for the purpose of determining whether good cause exists to continue such extension.

Authority: T.C.A. §§ 62-11-106 and -111.

Rule 0780-05-13-.10 Qualifying and Continuing Education Providers is amended by deleting the first sentence of subparagraph (1)(e) and deleting the text of paragraphs (2) and (3) and substituting instead the following language. The rule is further amended to add paragraph (4) so that, as amended, the rule shall read:

0780-05-13-.10 Qualifying and Continuing Education Providers

- (1) Course approval requirements.
 - (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application on a form prescribed by the Commissioner 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 e-mail address;
 3. The location of the courses or programs;
 4. The number and type of education credit hours requested for each course;
 5. Topic outlines that list the summarized topics covered in each course and, upon request, a copy of any course materials;
 6. If a prior approved course has substantially changed, a summarization of the changes; and
 7. 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. Life Safety Codes;
 2. Building Codes;
 3. Americans with Disabilities Act;
 4. Master Keying;
 5. Key Records and Codes;
 6. Key Blanks and Keyways;
 7. Product Liability;
 8. Professional Installations; and
 9. Tennessee locksmith laws and rules.
 - (c) 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.
 - (d) 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.

- (e) If the course is for qualifying or continuing education, each licensee successfully completing the course shall be furnished a certificate of completion.
 - (f) 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.
- (2) Continuing education providers.
- (a) The provider of any continuing education program must seek approval of such program by registering with the Commissioner in the prescribed form at least 30 days prior to the program being offered for continuing professional education credit. Such form shall include certification that the program sponsored will conform to the provisions of this chapter. If the course is for continuing education, each licensee successfully completing the course shall be furnished a certificate of completion.
 - (b) The provider of each continuing education program shall keep detailed records, including:
 - 1. the date and location of the program presentation;
 - 2. the names of each instructor and their qualifications in resume format;
 - 3. a list of licensees attending each program presentation, and
 - 4. a written outline of the program agenda.
 - (c) The records required by paragraph 2 of this rule shall be maintained for a period of five (5) years following the date of each program presentation.
 - (d) The provider of any continuing education program approved by the Commissioner may advise attendees of such approval and the number of continuing hours allowed.
- (3) Withdrawal of program approval.
- Approval of any program may be withdrawn by the Commissioner if:
- (a) The establishment or conduct of a program violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;
 - (b) The information contained in the application for approval is materially inaccurate or misleading;
 - (c) The provider, an instructor, or any representative of the provider disseminates false or misleading information concerning any program;
 - (d) The performance of the instructor is so deficient as to impair significantly the value of the program; provided, however, that the instructor shall receive adequate notice of the discovered deficiency and the opportunity to demonstrate satisfactory correction thereof.
- (4) Continuing education control and reporting system.
- (a) Each approved provider shall maintain a list of the names of each licensee in attendance, their respective license numbers and the number of hours each attended. Such list shall be provided to the program upon request from the Commissioner for the Tennessee Locksmith Licensing Program. Each attendee shall be provided a certificate of completion to be submitted with their renewal application.

- (b) It shall be the responsibility of each licensee to provide his name and license number to the provider at the time of registration for any Commissioner-approved continuing professional education program

Authority: T.C.A. § 62-11-106.

Rule 0780-05-13-.11 Civil Penalties is repealed in its entirety and substituting instead the following so that the new rule shall read:

- (1) With respect to any licensed locksmith, registered apprentice locksmith, or registered locksmith company, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee or registrant for each separate violation of a statute, rule or commissioner's order pertaining to locksmiths and apprentice locksmiths, in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-11-109	\$1 - \$2,500
(b) Any rule in this Chapter	\$1 - \$2,500
(c) Commissioner's order	\$1 - \$2,500

- (2) With respect to any person required to be licensed in this state as a locksmith or registered as an apprentice locksmith or locksmith company, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-11-104	\$1 - \$2,500

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any penalty to be assessed pursuant to this Rule, the commissioner may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of noncompliance;
 - (e) The interest of the public, and
 - (f) Willfulness of the violation.

Authority: T.C.A. §§ 62-11-106 and 62-11-110.

Rule 0780-05-13-.12 Submission of Information is amended by deleting paragraphs (2), (3), (4) and (5) in their entirety and substituting instead the following so that, as amended, paragraphs (2), (3), (4) and (5) of the rule shall read:

- (2) A licensee or registrant shall inform the commissioner in writing of any change in residential or business mailing or physical address within thirty (30) days of such change.
- (3) A qualifying agent on behalf of the locksmith company or a licensee shall inform the commissioner in writing of any change in his or her locksmithing business name, change in the

business structure including a change in qualifying agent status, or opening of a branch office within thirty (30) days before the change occurs or as soon as practicable. Locksmith company registrations and licenses are non-transferable.

- (4) A licensee or registrant shall submit a Transfer Notice on the form prescribed by the Commissioner containing the name of the current or previous employer and the name of the current or prospective employer along with two (2) color passport-style photos, identification card fee, and the Transfer Fee within ten (10) days of obtaining employment with another locksmithing company.
 - (a) In the case of a Termination, the locksmith shall not engage in any locksmithing activity that requires a license under T.C.A. § 62-11-104 without either first submitting a Transfer Notice or obtaining a new company registration.
- (5) A locksmith company shall submit a Termination Notice on the form prescribed by the Commissioner within ten (10) days of the termination, end of employment, or other separation from a locksmith indicating the locksmith's name, license number, date of separation, and such other information as the Commissioner may require.

Authority: T.C.A. § 62-11-106.

Rule 0780-05-13-.14 Code of Conduct is amended by adding new paragraphs (12) and (13) which shall read as follows:

- (12) Any vehicle dispatched by a licensed locksmith company for the purpose of conducting a business transaction for the locksmith company, regardless of whether the transaction requires a license for the activity or the individual dispatched is a licensed locksmith, shall conspicuously display the licensed locksmith company's identity and its license number in accordance with T.C.A. § 62-11-116.
- (13) Unless otherwise exempt, no licensed locksmith shall provide locksmith services except:
 - (a) As an employee, agent or contractor of a registered locksmith company; or
 - (b) As the holder of a locksmith company registration.

Authority: T.C.A. §§ 62-11-104, 62-11-106 and 62-11-116.

Chapter 0780-05-13
Locksmiths

New Rules

Rule 0780-05-13-.15 is reserved and Rule 0780-05-13-.16 Reciprocity is added to Chapter 0780-05-13, and shall read as follows:

0780-05-13-.16 Reciprocity

- (1) Pursuant to T.C.A. § 62-11-118, no locksmith, licensed in good standing in another jurisdiction, shall be required to meet the initial qualification education requirements for licensure in this state or be required to take and pass the locksmith examination if the applicant has any one (1) of the following Associated Locksmiths of America (ALOA) certified designations:
 - (a) Certified registered locksmith (CRL);
 - (b) Certified professional locksmith (CPL); or
 - (c) Certified master locksmith (CML).

- (2) In order to verify the licensee's status, a letter of good standing is required from at least one jurisdiction in which the applicant holds an active license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-11-106 and 62-11-118.

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

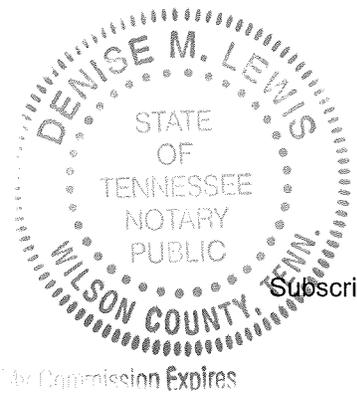
Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner (board/commission/ other authority) on 1/19/16 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/04/14

Rulemaking Hearing(s) Conducted on: (add more dates). 01/27/15



Date: 1/19/16

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner

Subscribed and sworn to before me on: 1/19/16

Notary Public Signature: Denise M Lewis

My commission expires on: 2/15/16

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

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
3/18/2016
Date

Department of State Use Only

Filed with the Department of State on: 3/28/16

Effective on: 6/26/16

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2016 MAR 28 PM 1:17
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment as to 0780-5-13-.03: Stanley Harrell ("Mr. Harrell"):Tennessee Locksmith Licensing requirements place an undue and unfair burden on Mr. Harrell's offering of services to federal agencies that may be located in Tennessee.

Response: The proposed rules do not place an undue or unfair burden on applicants and/or licenses similarly situated to Mr. Harrell as the licensing requirements are evenly applied to protect the Tennessee consumer from deceptive and illegal practices.

Comment as to 0780-5-13-.03(5): Robert Wesson ("Mr. Wesson"): The probationary period that can be invoked, seems ambiguous.

Response: The probationary period of the proposed rule is drafted to comply with Tenn. Code Ann. § 62-11-104(m), which provides the Commission with discretion to invoke a probationary measures upon each applicant. The Commissioner determined not to place any mandatory probationary requirements on all applicants, but instead the rule as written sets forth specific probationary measures that the Commissioner may invoke upon an applicant, where such measures are determined necessary. The measures are not ambiguous in that any applicant placed on probation will be provided with its specific probationary requirements to abide by during its period of probation.

Comment as to 0780-5-13-.03(5)(a): Define "[a]nd other such requirements determined to be reasonably necessary.

Response: The Commissioner's responsibilities are established by Tenn. Code Ann. § 62-11-106 and the rules are drafted to comply with the enacted laws. There is no suitable static definition for "and other such requirements determined to be reasonably necessary." However, such requirements must be "reasonably necessary." As such, any further requirements may not be arbitrary or capricious must address a specific concern and be drafted to mitigate the risk to consumers for such concern in a reasonable manner so not to be overly burdensome to the applicant.

Comment as to 0780-5-13-.09(1) from Mr. Wesson: I believe the State should come up with the curriculum for this course [i.e. life safety], along with the State Fire Marshal and the NFP-100.

Response: The change in the proposed rule was drafted in order to comply with Tenn. Code Ann. § 62-11-106(7). As written, the rule allows for locksmith attendance to a variety of fire safety courses. To produce the curriculum for a fire safety course would create a greater financial burden than benefit to the locksmith licensing program.

Comment as to 0780-5-13-.11 from Mr. Wesson: why is there a minimum on the civil penalty?

Response: The proposed rule was amended to lower the minimum civil penalty to one dollar (\$1.00). The Commissioner is granted statutory authority to levy a civil penalty up to \$2,500 per violation. This rule as amended gives notice that the Commissioner may use discretion in the levying of civil penalties based upon the circumstances of the violation as set out in paragraph (4) of the rules.

Comment as to 0780-5-13-.15 from Mr. Wesson: The proposed rule regarding reciprocity should incorporate provisions to allow more locksmiths, certified outside of ALOA (Associated Locksmith of America).

Response: ALOA is the only national certification association in the United States. To include additional associations would create a greater financial burden than benefit to the locksmith licensing program.

Comment as to 0780-5-13-.09(8) from Mr. Wesson: The carryover provision was a good thing for locksmiths.

Response: The proposed rule was drafted in an effort to comply with Tenn. Code Ann. § 62-11-111(i).

Comment as to 0780-5-13-.09(8): Representative Jay Reedy, District 74, requested clarification on the carryover provision.

Response: There is no carryover at all from a previous renewal period to later renewal period.

Comment as to 0780-5-13-.02(1): Mr. Ron Harrison ("Mr. Harrison") requested clarification on "access control" with regards to the alarm industry exemption statute, as stated in Tenn. Code Ann. § 62-32-305(7).

Response: There is no exemption for locksmiths or general contractors within Tenn. Code Ann. § 62-32-305(7).

Comment as to 0780-5-13-.02(3): Mr. Harrison requested clarification as to the definition of "branch office."

Response: The definition of branch office, and its related exception, is clearly defined in the rule.

Comment as to 0780-5-13-.02(19): Mr. Harrison requested clarification on the definition of "qualifying agent."

Response: A qualifying agent is clearly defined in the rule. The qualifying agent is required to qualify the company license; however, a company can have multiple branch offices with a licensed locksmith and the offices can have the same qualifying agent.

Comment as to 0780-5-13-.09: Mr. Harrison requested clarification on the carryover provision of the continuing education requirements and believes allowing a certain amount of continuing education hours is beneficial.

Response: The proposed rule regarding the continuing education's carry over provision is clearly defined and does not allow the carryover of continuing education hours.

Comment: Melissa Bass, Representative for the Tennessee Organization of Locksmiths, commended the staff of the Tennessee Locksmith Licensing Program on the proposed rules and subsequent rulemaking hearing.

Response: Ms. Bass' comments are acknowledged.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Answer: This rule would affect any locksmith licensees and locksmith apprentices as well as all future applicants. There are currently 370 locksmith licensee and 285 locksmith apprentices.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

Answer: The proposed rules create a more efficient, concise, and streamlined process for locksmith applicants and licensees. The proposed rules provide clarity in its application guidelines as well as renewal and continual maintenance procedures. The administrative skills and/or costs required for compliance with the proposed rules would not exceed those required for existing rules.

3. A statement of the probable effect on impacted small businesses and consumers:

Answer: These rules will have no effect on consumers. Minimally, small businesses can expect the proposed rules to effect, specifically, the continuing education requirement of the Locksmith Licensing Program and may result in higher costs to locksmith licensees.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Answer: The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

5. A comparison of the proposed rule with any federal or state counterparts:

Answer: There are no federal or state counterparts to the issues addressed by these rules.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

Answer: An exemption of small businesses from the aforementioned requirements would create an increased cost to each individual applicant and create an additional administrative process upon the agency, decreasing its standardization and efficiency in processing applications.

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)

There is no expected impact on local government by the promulgation of this amendment.

Additional Information Required by Joint Government Operations Committee

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

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

The proposed rules amend several definitions used within the licensing act, provides more efficient disclosure and renewal requirements for applicants, amends experience and education requirements, clarifies and amends civil penalties, amends rules of conduct with regards to identification of licensees, and allows for a more streamlined process to grant licensees reciprocity

- (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;

There are no known state or federal regulations mandating promulgation of such rule or establishing guidelines relevant thereto.

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

All current locksmith and locksmith apprentice licensees and future applicants will be affected by these amendments. The Department urges adoption of these rules; several members at the rulemaking hearing rejected the changes to the continuing education rules.

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

There is no known opinion of the attorney general and reporter or any judicial ruling that directly relates to this rule.

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

The promulgation of these rules are not estimated to result in an increase or decrease in state and local government revenues and expenditures of two percent (2%) or greater or five hundred thousand dollars (\$500,000)

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

Ashley N. Thomas
Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

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

Ashley N. Thomas
Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

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

Ashley N. Thomas
500 James Robertson Parkway
Nashville, TN. 37243
615-741-3072
ashley.thomas@tn.gov

Cody Vest
500 James Robertson Parkway
Nashville, TN 37243
615-253-3703
Cody.vest@tn.gov

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

No additional information requested.

Redline

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

For Department of State Use Only

Sequence Number: _____

Rule ID(s): _____

File Date: _____

Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Locksmith Licensing Program
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	Ashley N. Thomas, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
Phone:	615-741-3072
Email:	ashley.thomas@tn.gov

Revision Type (check all that apply):

Amendment

New

Repeal

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

Chapter Number	Chapter Title
0780-05-13	Locksmiths
Rule Number	Rule Title
0780-05-13-.02	Definitions
0780-05-13-.03	Application for License or Registration
0780-05-13-.04	Application Requirements
0780-05-13-.05	Renewal of Licenses and Registrations
0780-05-13-.08	Experience
0780-05-13-.09	Continuing Education and Programs
0780-05-13-.10	Qualifying and Continuing Education Providers
0780-05-13-.11	Civil Penalties
0780-05-13-.12	Submission of Information
0780-05-13-.14	Code of Conduct
0780-05-13-.16	Reciprocity

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0780-05-13
Locksmiths
Repeal/New

Table of Contents

0780-05-13-.01	Purpose	0780-05-13-.11	Civil Penalties
0780-05-13-.02	Definitions	0780-05-13-.12	Submission of Information
0780-05-13-.03	Application for License Registration	0780-05-13-.13	Standards of Practice
0780-05-13-.04	Application Requirements	0780-05-13-.14	Code of Conduct
0780-05-13-.05	Renewal of Licenses and Registrations	<u>0780-05-13-.16</u>	<u>Reciprocity</u>
0780-05-13-.08	Experience		
0780-05-13-.09	Continuing Education and Programs		
0780-05-13-.10	Qualifying and Continuing Education Providers		

0780-05-13-.02 Definitions.

- ~~(1) "Access control" means mechanical locks that have an integral alarm as part of their design without electrical components and electro-mechanical locks such as self-contained, low-voltage exit alarm devices that secure a single entry point, which are not part of an integrated system. Nothing in these rules shall exempt any locksmith from complying with the Alarm Contractors Licensing Law and Rules;~~
- (1) "Access control" means any barrier or device, which limits or prohibits free or unlimited access; however, for the purpose of this chapter, "access control" may mean any "stand-alone" mechanical, electro-mechanical, or electronic locking device that is not part of an integrated system. Nothing in this chapter shall exempt any licensed locksmith from complying with all licensing requirements for alarm contracting;
- (2) "Automotive work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or electrical locking device for controlled access to vehicles;
- (3) "Branch office" means any office of a locksmith company within this state other than its principal place of business within this state; physical location that is not the primary place of business at which a locksmith or apprentice conducts any activity relative to locksmithing services, including but not limited to offices where administrative and/or other locksmith business function is performed. The only exceptions are warehouse facilities which are utilized solely for storage purposes and locations that are not accessible to the general public which have no signage, advertising or other outward indication to the public that the licensing locksmith company conducts its primary business at that location.
- (4) "Commissioner" means the commissioner of commerce and insurance;
- (5) "Continuing education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal or a license as a locksmith;
- (6) "Conviction" means and includes the entry of a plea of guilty, plea of no contest or a verdict rendered in open court by a judge or jury;
- (7) "General locksmithing" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing locks or other devices for access to structures or personal property;

- (8) "Good moral character" means an individual with high legal, moral and ethical values, and the following shall be prima facie evidence that an individual does not have good moral character:
- (a) Conviction by any local, state, federal or military court of any crime involving the illegal sale, manufacture, distribution or transportation of a controlled substance, drug, or narcotic;
 - (b) Conviction of a crime involving felonious assault;
 - (c) Conviction of a crime involving unlawful breaking or entering, burglary, larceny or arson;
 - (d) Conviction as a habitual criminal;
 - (e) An addiction to alcohol or a narcotic drug;
 - (f) Discharge from the armed forces under dishonorable conditions; or
 - (g) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C. 921(33);
- (9) "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;~~
- (10) "Licensee" means an individual who holds a current, unexpired license as a locksmith issued by the commissioner;
- (11) "Locksmith company" means any person or entity engaging in the business of providing or undertaking to provide locksmithing services for another person;
- (12) "Locksmith student" means an individual who is enrolled in a locksmith training program pursuant to Rule 0780-05-13-.07;
- (13) "Locksmith training program" means a course or courses or an apprenticeship program given in preparation for licensure as a locksmith;
- (14) "Master key system" means any keying arrangement which has two or more levels of keying;
- ~~(14)~~(15) "Motor vehicle" shall have the same meaning as set forth in ~~Tenn. Code Ann~~ T.C.A. § 55-17-102(15);
- ~~(15)~~(16) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (17) "Permanent, fixed business location" means an office, office building or dwelling submitted to the commissioner as the locksmith company's principal place of business. Mail boxes and mail drop addresses may not be used as a primary place of business or as a branch office.
- ~~(16)~~(18) "Person" means an individual, firm, association, governmental entity, or other legal entity;
- ~~(17)~~(19) "Qualifying agent" means any person licensed by the commissioner as a locksmith who is immediately responsible for the operation of a principal office or any branch office;
- ~~(18)~~(20) "Qualifying education" means education that is creditable toward the education requirements for initial licensure as a locksmith;
- ~~(19)~~(21) "Registrant" means an individual who holds a current, unexpired registration as a locksmith apprentice issued by the commissioner or a company that holds a current, unexpired registration as a locksmith company issued by the commissioner;
- ~~(20)~~(22) "Safe and vault work" means repairing, rebuilding, repinning, recombining, servicing, adjusting, installing, manipulating, or bypassing a special locking system, mechanical locking device or

electrical locking device for controlled access or egress to safes, vaults, safe doors, lock boxes, automatic teller machines, or other devices for safeguarding areas;

~~(24)~~(23) "Structure" means any building or improvement and its components, systems, fixtures and appurtenances;

~~(24)~~ "Timely renewal" means that all documentation and fees required for the renewal have been received by the commissioner prior to the expiration of the locksmith license or registration.

Authority: T.C.A. § 62-11-106.

0780-05-13-.03 Application for License or Registration.

(1) Any person who seeks to be licensed as a locksmith in any category, registered as an apprentice locksmith, or registered as a locksmith company shall complete an application on a form prescribed by the Commissioner and submit the completed application to the Commissioner. Such applications for licensure or registration are available upon request from the Commissioner. All fees associated with initial licensure and subsequent renewals are non-refundable.

~~(2)~~ ~~Applications for licensure or registration are available upon request from the Commissioner.~~

~~(3)~~(2) All applications for licensure or registration shall be submitted on the form prescribed by the commissioner for this purpose and shall be accompanied by the following supporting documents:

(a) A copy of at least one (1) of the following valid forms of identification:

1. A driver's license or non-driver's I.D. issued by the State Department of Motor Vehicles; or
2. A valid passport; or
3. A resident alien card; or
4. A license or permit issued by a government agency; or
5. If the applicant is a city, state, or federal employee, an employee identification card.

~~(b)~~ ~~Two (2) completed fingerprint cards or a copy of the receipt for electronically scanned prints. Fingerprints must be rolled nail to nail by a qualified, trained technician on the fingerprint cards provided by this office. The cards must be fully completed and signed and all questions in the blocks at the top of the card must be answered.~~

(c) Any applicant disclosing any citations, arrests, convictions, or any other documented activity associated with criminal behavior, whether involving a military crime or a state or federal misdemeanor or felony, must provide a written explanation of the episode, and any associated documentation in support thereof. Failure to provide this written information will result in an incomplete application and will cause the application to not be processed.

~~(e)~~(d) Two (2) color frontal photographs of the applicant's face taken within the preceding three (3) months, the size of which must be one (1) inch by one (1) inch and must include the applicant's name and the last four (4) digits of the applicant's social security number on the back of each photograph.

~~(d)~~(e) All applications for a locksmith company registration shall also include the following:

4. ~~The name, date of birth, residence, present and previous occupations of the qualifying agent and each member, officer or director of the business firm;~~

1. The address of the permanent, fixed principal place of business location of the firm and location of all branch offices as well as the qualifying agent licensed locksmith for each branch office, if applicable. A mail drop box address is not acceptable as a physical location for any kind of office;
 2. The address of the principal place of business of the firm and the location of all branch offices as well as the qualifying agent for each branch office, if applicable;
 3. 2. Evidence of general liability insurance and insurance coverage as set forth in Tenn. Code Ann T.C.A. § 62-11-108; and
 4. 3. A payment in the amount of the application fee as set forth in Rule 0780-05-13.06.
 4. Copies of a locksmith company's current business license(s) in all applicable city and county jurisdictions within Tennessee.
- (f) Applicants for licensure or registration under this chapter shall be of good moral character as defined by Rule 0780-05-13-.02(8).
- ~~(4)~~(3) Any application submitted which lacks required information or reflects a failure to meet any requirement for licensure or registration will be held by the program office with written notification that the information is lacking or the reason(s) the application does not meet the requirements for licensure sent to the applicant. The application will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed sixty (60) ninety (90) days from the date of application. If the applicant fails to respond to the written notification, the application will be closed and the applicant must reapply.
- ~~(5)~~(4) Any application submitted may be withdrawn; provided, however, that the application fee will not be refunded. all fees associated with the application and initial licensure are nonrefundable.
- ~~(5)~~ Any partnership, association, company or corporation seeking initial registration as a locksmith business shall be placed on probationary licensure status for a period of two (2) years from the date of the issuance of the registration.
- (a) Such probationary status may include such reasonable terms and conditions for the issuance and maintenance of a locksmith business registration as the commissioner determines to be reasonably necessary. Such probationary requirements may include, but are not limited to:
1. Acquiring a bond in an amount determined to be necessary by the commissioner for the protection of the public;
 2. Providing reports to the commissioner regarding the company's activities as a locksmith company; or
 3. Such other requirements determined to be reasonably necessary by the commissioner.
- (b) A licensee's probationary status may be considered by the commissioner in the assessment of discipline for any acts, conduct, or other disciplinary violations occurring during the probationary period.
- (c) No locksmith business registrant shall violate the terms and conditions of its probation.

Authority: T.C.A. §§ 62-11-106, -106, -111, and -112.

0780-05-13-.04 Application Requirements.

- (1) ~~Beginning immediately upon the effective date of these rules, and continuing until July 1, 2008, any~~ Any person who desires to obtain a license as a locksmith in any category or a registration as a locksmith company shall submit an application to the Commissioner, along with the required application and license fee, provided that the applicant meets the requirements set forth in ~~Tenn. Code Ann~~ T.C.A. §§ 62-11-111(a) and (b) and demonstrates to the satisfaction of the Commissioner not less than two (2) years' experience in the locksmithing business, or an equivalent amount of certified education or apprenticeship.
- (2) ~~Beginning July 1, 2008, any~~ Any person who desires to obtain a license as a locksmith in any category, a registration as an apprentice locksmith, or a registration as a locksmith company shall submit an application to the Commissioner, along with the required application and license fee and shall comply with ~~Tenn. Code Ann~~ T.C.A. §§ 62-11-111 or 62-11-112.
- (3) Applications will not be considered ~~filed~~ complete until the applicable fee prescribed in these rules is received.

Authority: T.C.A. §§ 62-11-106, -111, and -112.

0780-05-13-.05 Renewal of Licenses and Registrations.

- (1) Licenses and certificates of registration shall expire on the last day of the twenty-fourth (24th) month following their issuance or renewal, and shall become invalid on such date unless renewed.
- (2) Renewal must be received in the office of the Commissioner not less than thirty (30) days nor more than sixty (60) days prior to the expiration of a license or certificate.
- (3) Licenses and registrations granted shall be staggered in accordance with ~~Tenn. Code Ann~~ T.C.A. § 56-1-302(b).
- (4) An individual or company choosing not to renew his, her or its license or registration shall notify the Commissioner of his, her or its intention prior to the expiration of that license or registration, and shall surrender the license or registration to the Commissioner immediately upon its expiration.
- (5) Applications for renewal of licenses and registrations pursuant to the Act shall be made on a form provided by the Commissioner. Applications for renewals will not be considered ~~filed~~ complete until the applicable fee and documentation prescribed in these rules ~~is~~ are received.
- ~~(6) Any locksmith licensee or registrant who does not submit all required documentation and fees within ninety (90) days of the expiration date of the license or registration must reapply.~~
- ~~(7) A late fee will be assessed on any incomplete renewal application which is not completed prior to the expiration of the current license or registration.~~

Authority: T.C.A. §§ 62-11-106, -111, and -112.

0780-05-13-.08 Experience.

- (1) An applicant seeking licensure as a locksmith under ~~any the general~~ locksmithing category shall demonstrate to the satisfaction of the Commissioner not less than two (2) years' experience in the locksmithing business, or an equivalent amount of apprenticeship, as permitted under T.C.A § 62-11-112. ~~obtain forty (40) hours of verifiable experience prior to submitting an application for licensure.~~
- ~~(2) An applicant seeking licensure as a locksmith under the safe and vault category shall obtain ten (10) hours of experience prior to submitting an application for licensure.~~

- ~~(3) An applicant seeking licensure as a locksmith under the automotive work category shall obtain ten (10) hours of experience prior to submitting~~
- (4) Prior to July 1, 2008, the Commissioner shall allow the applicant to submit proof of the required two (2) years experience by providing at least two (2) of the following:
 - (a) Business license;
 - (b) Federal tax ID;
 - (c) Sales tax receipt; and
 - (d) Letter from employer on employer's letterhead stating the applicant's experience.

Authority: T.C.A. § 62-11-106.

0780-05-13-.09 Continuing Education and Programs

- (1) Continuing Education Credits.
 - ~~(a) As a prerequisite to renewal, a licensee shall obtain twelve (12) hours of continuing education for each biennial renewal period.~~
 - ~~(b) A licensee who completes more than twelve (12) hours of continuing education credits in a biennial renewal period may carry over a maximum of four (4) hours into the next renewal period.~~
 - ~~(c) A licensee shall obtain continuing education credits from any of the following sources:

 - 1. Successful completion of a continuing education course or program approved by the Commissioner;
 - 2. Participation in developing curriculum for a qualifying or continuing education course or program;
 - 3. Teaching a qualifying or continuing education course or program, limited to six (6) hours per biennial renewal period;
 - 4. Authorship of a textbook or manual directly related to locksmithing services, limited to six (6) hours per biennial renewal period; or
 - 5. Authorship of a published article related to locksmithing services, limited to four (4) hours per article and two (2) articles per biennial renewal period.~~
 - ~~(d) The Commissioner may waive the continuing education requirements upon request by the licensee by showing good cause for the waiver, including but not limited to reasons such as illness, disability, or military service.~~
 - ~~(e) The licensee seeking a waiver of continuing education requirements shall request the waiver in writing to the Commissioner at least ninety (90) days prior to the licensee's renewal date.~~
- (2) Exemption to continuing education requirements for one (1) twelve (12) month period per renewal cycle may be granted if applied for in writing on the form prescribed by the Commissioner for this purpose for the following reasons:
 - (a) A licensee serving on temporary active duty in the armed forces of the United States for a period exceeding one hundred twenty (120) consecutive days within the year.

- (b) ~~A licensee experiencing physical disability or illness if supporting documents are submitted to and approved by the Commissioner. Such documentation shall be in the form of a statement from a physician or medical records which show that the disability or illness prevented the licensee's participating in a course in which the licensee has enrolled or prevented the licensee's participation in the continuing education program for at least one hundred twenty (120) consecutive days in a year.~~
- (1) As a prerequisite to renewal, a licensee shall obtain twelve (12) hours of continuing education for each biennial renewal period, two (2) of which shall be dedicated to life safety.
- (2) In order to qualify for credit toward satisfaction of the continuing professional education requirements of T.C.A. § 62-11-106(7), the continuing education program must be a formal program of learning which contributes directly to the professional competence of the licensee.
- (3) Formal programs requiring attendance may only be considered if:
- (a) an outline is prepared and preserved;
- (b) the unit program is at least one (1) hour (1 credit hour = 50 minutes) in length;
- (c) the program is conducted by a qualified instructor or lecturer; and
- (d) a record of registration and attendance is maintained and certified by the signatures of an authorized representative of the organization sponsoring the program.
- (4) Subject to compliance with paragraphs 1 and 2 of this rule, the following are deemed to be qualifying programs:
- (a) University or college courses provided that:
1. successful completion of a semester or quarter length course will satisfy the continuing professional education requirement for the year in which it is taken; and
2. the courses are relevant to the locksmith industry.
- (b) Programs of locksmith associations and organizations recognized by the Commissioner.
- (c) Formal correspondence and other individual study programs which require registration and provide evidence of satisfactory completion may qualify for continuing education credit in an amount to be determined by the Commissioner.
- (5) Continuing education credit will be allowed for service as an instructor or speaker at any program for which participants are eligible to receive continuing education credit. Credit for such service shall be allowed on the first presentation only, unless the program has been substantially revised. One (1) hour of instruction will equal one (1) hour of continuing education.
- (6) Any program of continuing education not specifically mentioned by this rule may be submitted to the Commissioner for evaluation and approval.
- (7) The Commissioner specifically reserves the right to approve or disapprove credit for continuing education claimed under this rule.
- (8) Each attendee shall be provided a certificate of completion to be submitted with their renewal application.
- (9) No carryover of hours from renewal period to the next renewal period is permitted.

- (10) The Commissioner may, upon written request, extend the time within which a licensee must comply with the requirements of this chapter for reasons of poor health, military service, or other reasonable and just causes.
- (11) Any licensee who requests and is granted an extension of time under this rule shall remain subject to the provisions of this chapter and shall note such extension on any report or correspondence thereafter submitted until such time as the extension and reason for it are no longer pertinent.
- (12) Each extension of time granted by the Commissioner shall be reviewed every six (6) months for the purpose of determining whether good cause exists to continue such extension.

Authority: T.C.A. §§ 62-11-106 and -111.

0780-05-13-.10 Qualifying and Continuing Education Providers.

- (1) Course approval requirements.
- (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application on a form prescribed by the Commissioner 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 e-mail address;
 3. The location of the courses or programs;
 4. The number and type of education credit hours requested for each course;
 5. Topic outlines that list the summarized topics covered in each course and, upon request, a copy of any course materials;
 6. If a prior approved course has substantially changed, a summarization of the changes; and
 7. 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. Life Safety Codes;
 2. Building Codes;
 3. Americans with Disabilities Act;
 4. Master Keying;
 5. Key Records and Codes;
 6. Key Blanks and Keyways;
 7. Product Liability;

8. Professional Installations; and
 9. Tennessee locksmith laws and rules.
- (c) 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 ~~Tenn. Code Ann~~ T.C.A. Title 4, Chapter 5.
 - (d) 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.
 - (e) ~~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 qualifying or continuing education, each licensee successfully completing the course shall be furnished a certificate of completion.~~
 - (f) 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.
- ~~(2) Instructor qualifications and requirements. A person seeking approval as an instructor shall submit an application on a form prescribed 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 associates 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; or~~
 4. ~~Other educational, teaching or professional qualifications determined by the Commissioner which constitute an equivalent to one (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 the requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.~~
 - ~~(c) All instructors shall furnish a log, on a form prescribed by the Commissioner, of all continuing education classes taught during the previous license period, a list of the names of the students enrolled in the classes, the dates, the number of hours, and a brief description of the subject matter included in the course or program.~~
- (2) Continuing education providers.
- (a) The provider of any continuing education program must seek approval of such program by registering with the Commissioner in the prescribed form at least 30 days prior to the program being offered for continuing professional education credit. Such form shall include certification that the program sponsored will conform to the provisions of this

chapter. If the course is for continuing education, each licensee successfully completing the course shall be furnished a certificate of completion.

(b) The provider of each continuing education program shall keep detailed records, including:

1. the date and location of the program presentation;
2. the names of each instructor and their qualifications in resume format;
3. a list of licensees attending each program presentation, and
4. a written outline of the program agenda.

(c) The records required by paragraph 2 of this rule shall be maintained for a period of five (5) years following the date of each program presentation.

(d) The provider of any continuing education program approved by the Commissioner may advise attendees of such approval and the number of continuing hours allowed.

~~(3) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a locksmith 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 later than thirty (30) days prior to the expiration date of the license.~~

(3) Withdrawal of program approval.

Approval of any program may be withdrawn by the Commissioner if:

- (a) The establishment or conduct of a program violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;
- (b) The information contained in the application for approval is materially inaccurate or misleading;
- (c) The provider, an instructor, or any representative of the provider disseminates false or misleading information concerning any program;
- (d) The performance of the instructor is so deficient as to impair significantly the value of the program; provided, however, that the instructor shall receive adequate notice of the discovered deficiency and the opportunity to demonstrate satisfactory correction thereof.

(4) Continuing education control and reporting system.

- (a) Each approved provider shall submit to the Commissioner, in approved form, within fifteen (15) days of the completion of their program, a list of the names of each licensee in attendance, their respective license numbers and the number of hours each attended.
- (b) It shall be the responsibility of each licensee to provide his name and license number to the provider at the time of registration for any Commissioner-approved continuing professional education program.

Authority: T.C.A. § 62-11-106.

0780-05-13-.11 Civil Penalties.

SS-7037 (July 2014)

- (1) With respect to any licensed locksmith, registered apprentice locksmith, or registered locksmith company, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee or registrant for each separate violation of a statute, rule or commissioner's order pertaining to locksmiths and apprentice locksmiths, in accordance with the following schedule:

Violation	Penalty
(a) Tenn. Code Ann T.C.A. § 62-11-109	\$100 - \$5,000 <u>\$1 - \$2,500</u>
(b) Rule 0780-5-13-.12	\$100 - \$5,000
<u>(b) Any rule in this Chapter</u>	<u>\$1 - \$2,500</u>
(c) Rule 0780-5-13-.13	\$100 - \$5,000
(d) Rule 0780-5-13-.14	\$100 - \$5,000
<u>(e)(c) Commissioner's order</u>	<u>\$100 - \$5,000</u> <u>\$1 - \$2,500</u>

- (2) With respect to any person required to be licensed in this state as a locksmith or registered as an apprentice locksmith or locksmith company, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
Tenn. Code Ann T.C.A. § 62-11-104	\$100 - \$5,000 <u>\$1 - \$2,500</u>

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any penalty to be assessed pursuant to this Rule, the commissioner may consider such factors as the following:
- (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of noncompliance;
 - (e) The interest of the public, and
 - (f) Willfulness of the violation.

Authority: T.C.A. §§ 62-11-106 and 62-11-110.

0780-05-13-.12 Submission of Information.

- (2) A licensee or registrant shall inform the commissioner in writing of any change in residential or business mailing or physical address within thirty (30) days of such change.
- (3) A qualifying agent on behalf of the locksmith company or a licensee shall inform the commissioner in writing of any change in his or her locksmithing business name, change in the business structure including a change in qualifying agent status, or opening of a branch office within thirty (30) days before the change occurs or as soon as practicable. Locksmith company registrations and licenses are non-transferable.
- (4) A licensee or registrant shall submit a Transfer Notice on the form prescribed by the Commissioner containing the name of the current or previous employer and the name of the current or prospective employer along with two (2) color passport-style photos, identification card fee, and the Transfer Fee within ten (10) days of obtaining employment with another locksmithing company.

- (a) In the case of a termination, the locksmith shall not engage in any locksmithing activity that requires a license under T.C.A. § 62-11-104 without either first submitting a Transfer Notice or obtaining a new company registration.
- ~~(5) A licensee or registrant shall inform the Commissioner in writing if he/she has had his/her license or registration disciplined in another state within thirty (30) days after the licensee or registrant was disciplined.~~
- (5) A locksmith company shall submit a Termination Notice on the form prescribed by the Commissioner within ten (10) days of the termination, end of employment, or other separation from a locksmith indicating the locksmith's name, license number, date of separation, and such other information as the Commissioner may require.

Authority: T.C.A. § 62-11-106.

0780-5-13-.14 Code of Conduct.

- (1) Licensees or registrants shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
- (2) A licensee or registrant shall not use improper or questionable methods of soliciting business, including but not limited to misleading clients, utilizing scare tactics or causing damage to an otherwise functioning product, and shall not pay another person or accept payment from another person for engaging in these improper methods.
- (3) A licensee or registrant shall not associate his/her individual or business name with any business or event that engages in or attempts to engage in misrepresentation.
- (4) A licensee or registrant shall not disclose any client information obtained relative to locksmithing services performed to someone other than the client unless the disclosure is expressly authorized in writing by the client.
- (5) A licensee or registrant shall not misrepresent his/her locksmithing services, the features of any product, or make unwarranted claims about the merits of a product or a service that the licensee offers.
- (6) No licensee or registrant shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- (7) No licensee or registrant shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.
- (8) Before the execution of a contract to perform locksmithing services, a licensee or registrant shall disclose to the client any interest in a business that may affect the client. No licensee or registrant shall allow his or her interest in any business to affect the quality or results of the locksmithing work that the licensee or registrant may be called upon to perform.
- (9) Licensees and registrants shall not engage in false or misleading advertising.
- (10) A licensee or registrant shall not perform or recommend any locksmithing services that would violate applicable federal, state or local laws, or codes or pose a threat to public safety.
- (11) A licensee or registrant shall not perform or endeavor to perform locksmithing services while under the influence of or impaired by alcohol or a narcotic drug
- (12) Any vehicle dispatched by a licensed locksmith company for the purpose of conducting a business transaction for the locksmith company, regardless of whether the transaction requires a license for the activity or the individual dispatched is a licensed locksmith, shall conspicuously

display the licensed locksmith company's identity and its license number in accordance with T.C.A. § 62-11-116.

(13) Unless otherwise exempt, no licensed locksmith shall provide locksmith services except:

- (a) As an employee, agent or contractor of a registered locksmith company; or
- (b) As the holder of a locksmith company registration.

Authority: T.C.A. §§ 62-11-104, 62-11-106 and 62-11-116.

0780-05-13-.16 Reciprocity

(1) Pursuant to T.C.A. § 62-11-118, no locksmith, licensed in good standing in another jurisdiction, shall be required to meet the initial qualification education requirements for licensure in this state or be required to take and pass the locksmith examination if the applicant has any one (1) of the following Associated Locksmiths of America (ALOA) certified designations:

- (a) Certified registered locksmith (CRL);
- (b) Certified professional locksmith (CPL); or
- (c) Certified master locksmith (CML).

(2) In order to verify the licensee's status, a letter of good standing is required from at least one jurisdiction in which the applicant holds an active license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-11-106 and 62-11-118.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Commerce and Insurance on _____ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/04/14

Rulemaking Hearing(s) Conducted on: (add more dates). 01/27/15

Date: _____

Signature: _____

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment as to 0780-5-13-.03: Stanley Harrell (“Mr. Harrell”): Tennessee Locksmith Licensing requirements place an undue and unfair burden on Mr. Harrell’s offering of services to federal agencies that may be located in Tennessee.

Response: The proposed rules do not place an undue or unfair burden on applicants and/or licenses similarly situated to Mr. Harrell as the licensing requirements are evenly applied to protect the Tennessee consumer from deceptive and illegal practices.

Comment as to 0780-5-13-.03(5): Robert Wesson (“Mr. Wesson”): The probationary period that can be invoked, seems ambiguous.

Response: The probationary period of the proposed rule is drafted to comply with Tenn. Code Ann. § 62-11-104(m), which provides the Commission with discretion to invoke a probationary measures upon each applicant. The Commissioner determined not to place any mandatory probationary requirements on all applicants, but instead the rule as written sets forth specific probationary measures that the Commissioner may invoke upon an applicant, where such measures are determined necessary. The measures are not ambiguous in that any applicant placed on probation will be provided with its specific probationary requirements to abide by during its period of probation.

Comment as to 0780-5-13-.03(5)(a): Define “[a]nd other such requirements determined to be reasonably necessary.

Response: The Commissioner’s responsibilities are established by Tenn. Code Ann. § 62-11-106 and the rules are drafted to comply with the enacted laws. There is no suitable static definition for “and other such requirements determined to be reasonably necessary.” However, such requirements must be “reasonably necessary.” As such, any further requirements may not be arbitrary or capricious must address a specific concern and be drafted to mitigate the risk to consumers for such concern in a reasonable manner so not to be overly burdensome to the applicant.

Comment as to 0780-5-13-.09(1) from Mr. Wesson: I believe the State should come up with the curriculum for this course [i.e. life safety], along with the State Fire Marshal and the NFP-100.

Response: The change in the proposed rule was drafted in order to comply with Tenn. Code Ann. § 62-11-106(7). As written, the rule allows for locksmith attendance to a variety of fire safety courses. To produce the curriculum for a fire safety course would create a greater financial burden than benefit to the locksmith licensing program.

Comment as to 0780-5-13-.11 from Mr. Wesson: why is there a minimum on the civil penalty?

Response: The proposed rule was amended to lower the minimum civil penalty to one dollar (\$1.00). The Commissioner is granted statutory authority to levy a civil penalty up to \$2,500 per violation. This rule as amended gives notice that the Commissioner may use discretion in the levying of civil penalties based upon the circumstances of the violation as set out in paragraph (4) of the rules.

Comment as to 0780-5-13-.15 from Mr. Wesson: The proposed rule regarding reciprocity should incorporate provisions to allow more locksmiths, certified outside of ALOA (Associated Locksmith of America).

Response: ALOA is the only national certification association in the United States. To include additional associations would create a greater financial burden than benefit to the locksmith licensing program.

Comment as to 0780-5-13-.09(8) from Mr. Wesson: The carryover provision was a good thing for locksmiths.

Response: The proposed rule was drafted in an effort to comply with Tenn. Code Ann. § 62-11-111(i).

Comment as to 0780-5-13-.09(8): Representative Jay Reedy, District 74, requested clarification on the carryover provision.

Response: There is no carryover at all from a previous renewal period to later renewal period.

Comment as to 0780-5-13-.02(1): Mr. Ron Harrison ("Mr. Harrison") requested clarification on "access control" with regards to the alarm industry exemption statute, as stated in Tenn. Code Ann. § 62-32-305(7).

Response: There is no exemption for locksmiths or general contractors within Tenn. Code Ann. § 62-32-305(7).

Comment as to 0780-5-13-.02(3): Mr. Harrison requested clarification as to the definition of "branch office."

Response: The definition of branch office, and its related exception, is clearly defined in the rule.

Comment as to 0780-5-13-.02(19): Mr. Harrison requested clarification on the definition of "qualifying agent."

Response: A qualifying agent is clearly defined in the rule. The qualifying agent is required to qualify the company license; however, a company can have multiple branch offices with a licensed locksmith and the offices can have the same qualifying agent.

Comment as to 0780-5-13-.09: Mr. Harrison requested clarification on the carryover provision of the continuing education requirements and believes allowing a certain amount of continuing education hours is beneficial.

Response: The proposed rule regarding the continuing education's carry over provision is clearly defined and does not allow the carryover of continuing education hours.

Comment: Melissa Bass, Representative for the Tennessee Organization of Locksmiths, commended the staff of the Tennessee Locksmith Licensing Program on the proposed rules and subsequent rulemaking hearing.

Response: Ms. Bass' comments are acknowledged.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Answer: This rule would affect any locksmith licensees and locksmith apprentices as well as all future applicants. There are currently 370 locksmith licensee and 285 locksmith apprentices.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

Answer: The proposed rules create a more efficient, concise, and streamlined process for locksmith applicants and licensees. The proposed rules provide clarity in its application guidelines as well as renewal and continual maintenance procedures. The administrative skills and/or costs required for compliance with the proposed rules would not exceed those required for existing rules.

3. A statement of the probable effect on impacted small businesses and consumers:

Answer: These rules will have no effect on consumers. Minimally, small businesses can expect the proposed rules to effect, specifically, the continuing education requirement of the Locksmith Licensing Program and may result in higher costs to locksmith licensees.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Answer: The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

5. A comparison of the proposed rule with any federal or state counterparts:

Answer: There are no federal or state counterparts to the issues addressed by these rules.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

Answer: An exemption of small businesses from the aforementioned requirements would create an increased cost to each individual applicant and create an additional administrative process upon the agency, decreasing its standardization and efficiency in processing applications.

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)

There is no expected impact on local government by the promulgation of this amendment.

Additional Information Required by Joint Government Operations Committee

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

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

The proposed rules amend several definitions used within the licensing act, provides more efficient disclosure and renewal requirements for applicants, amends experience and education requirements, clarifies and amends civil penalties, amends rules of conduct with regards to identification of licensees, and allows for a more streamlined process to grant licensees reciprocity

- (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;

There are no known state or federal regulations mandating promulgation of such rule or establishing guidelines relevant thereto.

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

All current locksmith and locksmith apprentice licensees and future applicants will be affected by these amendments. The Department urges adoption of these rules; several members at the rulemaking hearing rejected the changes to the continuing education rules.

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

There is no known opinion of the attorney general and reporter or any judicial ruling that directly relates to this rule.

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

The promulgation of these rules are not estimated to result in an increase or decrease in state and local government revenues and expenditures of two percent (2%) or greater or five hundred thousand dollars (\$500,000)

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

Ashley N. Thomas
Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

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

Ashley N. Thomas

Assistant General Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

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

Ashley N. Thomas
500 James Robertson Parkway
Nashville, TN. 37243
615-741-3072
ashley.thomas@tn.gov

Cody Vest
500 James Robertson Parkway
Nashville, TN 37243
615-253-3703
Cody.vest@tn.gov

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

No additional information requested.