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Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission: Department of Commerce and Insurance
Division: Insurance
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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. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-01-37	Annual Statement Filing Requirements
Rule Number	Rule Title
0780-01-37-.01	Purpose.
0780-01-37-.02	Scope.
0780-01-37-.03	Authority.
0780-01-37-.04	Definitions.
0780-01-37-.05	Form of Annual Statements.
0780-01-37-.06	Instructions for Completion of Annual Statements Forms.
0780-01-37-.07	Instructions for Completion of Quarterly Financial Statements.
0780-01-37-.08	Filing of Annual and Quarterly Statements.
0780-01-37-.09	Due Dates for the Filing of Annual and Quarterly Statements.
0780-01-37-.10	Effect of Filing in Violation of this Chapter.
0780-01-37-.11	Violations and Penalties.
0780-01-37-.12	Severability.

Substance of Proposed Rules

Chapter 0780-01-37
Annual Statement Filing Requirements

Amendments

Chapter 0780-01-37 is amended by deleting the Chapter in its entirety and substituting the following language so that as amended the Chapter shall read:

Chapter 0780-01-37
Annual Statement Filing Requirements

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0780-01-37-.01 Purpose.

The purpose of this Chapter is to set forth the manner in which insurers, companies and health maintenance organizations licensed in the State of Tennessee file annual and quarterly financial statements and annual and quarterly financial reports with the commissioner.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

0780-01-37-.02 Scope.

Every insurer and/or company authorized to do business under the provisions of Title 56, that is required to file annual statements pursuant to T.C.A. § 56-1-501, 56-44-102, or otherwise by law, must file such annual and quarterly statements in the manner provided by this Chapter. Every health maintenance organization, authorized to do business under the provisions of Title 56, Chapter 32, that is required to file an annual report pursuant to T.C.A. § 56-32-108, must file annual and quarterly reports in the manner provided by this Chapter.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

0780-01-37-.03 Authority.

This Chapter is promulgated by the commissioner pursuant to T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

0780-01-37-.04 Definitions.

As used in this Chapter, unless noted otherwise, the following definitions shall apply:

- (1) "Annual statement" means and includes annual statements, the Statement of Actuarial Opinion, Management's Discussion and Analysis and any other documents specified in T.C.A. § 56-1-501.
- (2) "Commissioner" means the commissioner of the Tennessee Department of Commerce and Insurance.
- (3) "Department" means the Tennessee Department of Commerce and Insurance.
- (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) "Health maintenance organization" means any person that undertakes to provide or arrange for basic health care services to enrollees on a prepaid basis pursuant to Title 56, Chapter 32 of the Tennessee Code Annotated.
- (6) "NAIC" means the National Association of Insurance Commissioners.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118, and 56-44-102(a)(1).

0780-01-37-.05 Form of Annual Statements.

- (1) In meeting the annual financial reporting requirements of T.C.A. § 56-1-501, all insurers and/or companies enumerated in T.C.A. § 56-1-501(b), 56-44-102, or otherwise required to file annual statements by law must use the following annual statement forms adopted by the NAIC, as amended from time to time, as is appropriate for each line or types of insurance business in which the company is engaged, unless such forms are in contradiction with a law or statute:
 - (a) Life and Accident and Health Annual Statement Blank;
 - (b) Property and Casualty Annual Statement Blank;
 - (c) Title Annual Statement Blank;
 - (d) Fraternal Annual Statement Blank; and
 - (e) Health Annual Statement Blank.
- (2) Insurers and/or companies are required to use any annual statement forms adopted by the NAIC for any other lines or types of insurance business that may be applicable to insurers licensed and operating in this State.
- (3) Health maintenance organizations required to file annual reports pursuant to T.C.A. § 56-32-108 must use the blank prescribed by the NAIC for health maintenance organizations.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

0780-01-37-.06 Instructions for Completion of Annual Statement Forms.

- (1) For completion of the annual statement forms required under Rule 0780-01-37-.05, and except when such instructions conflict with a statute, the applicable instructions adopted by the NAIC, as amended from time to time, and as follows, as well as all other applicable rules promulgated by the commissioner, must be followed in completing and filing the annual statement forms:
 - (a) Instructions for Completing Life and Accident and Health Annual Statement Blank;
 - (b) Instructions for Completing Property and Casualty Annual Statement Blank;
 - (c) Instructions for Completing Title Annual Statement Blank;
 - (d) Instructions for Completing Fraternal Annual Statement Blank; and

- (e) Instructions for Completing Health Annual Statement Blank.
- (2) Insurers and/or companies are required to use any instructions adopted by the NAIC which are applicable to any annual statement form referenced in Rule 0780-01-37-.05.
- (3) Health maintenance organizations are required to use any instructions adopted by the NAIC which are applicable to any annual report form referenced in Rule 0780-01-37-.05.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

0780-01-37-.07 Instructions for Completion of Quarterly Financial Statements.

- (1) In addition to annual statements required by T.C.A. § 56-1-501, all insurers and/or companies enumerated in T.C.A. § 56-1-501(b), 56-44-102, or otherwise required by law to file annual statements are also required to file financial statements on a quarterly basis. Such quarterly statements must be filed on May 15, August 15, and November 15 of each year. Foreign insurers and/or companies shall, unless requested by the commissioner, file their quarterly statements with the NAIC in lieu of filing such statements with the commissioner.
- (2) All insurers and/or companies enumerated in T.C.A. § 56-1-501(b), 56-44-102 or otherwise required by law to file such annual statements must use the following Quarterly Financial Statement forms adopted by the NAIC, as amended from time to time:
 - (a) Life and Accident and Health Quarterly Statement Blank;
 - (b) Property and Casualty Quarterly Statement Blank;
 - (c) Title Quarterly Statement Blank;
 - (d) Fraternal Quarterly Statement Blank; and
 - (e) Health Quarterly Statement Blank.
- (3) Insurers and/or companies are required to use any quarterly statement form adopted by the NAIC for any other lines or types of insurance business that may be applicable to companies licensed and operating in this State.
- (4) Health maintenance organizations required to file annual reports pursuant to T.C.A. § 56-32-108 shall also file a quarterly financial statement on the quarterly statement form adopted by the NAIC for health maintenance organizations. Such quarterly statements must be filed on May 15, August 15, and November 15 of each year.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118, and 56-44-102(a)(1).

0780-01-37-.08 Filing of Annual and Quarterly Statements.

- (1) For insurers and companies not domiciled in Tennessee, the annual statements required by this Chapter shall be filed electronically with the NAIC. Such entities shall file with the commissioner a hard copy jurat page only, in the manner provided by the commissioner, subscribed and sworn to by the entity's president and secretary, or in their absence, by two (2) of its principal officers.
- (2) For all insurers and companies domiciled in Tennessee, the annual statements required by this Chapter shall be filed electronically with the commissioner. Domestic insurers and companies shall also file the annual statement electronically with the NAIC. All insurers and companies domiciled in Tennessee shall also file with the commissioner one (1) non-electronic signed original and one (1) non-electronic copy of the annual statement. The original and hard copy annual statements should be subscribed and sworn to by the insurer's or company's president and secretary, or in their absence, by two (2) of its principal officers as required by applicable Tennessee law.

- (3) (a) For insurers and/or companies not domiciled in Tennessee, each quarterly statement may be filed electronically with the NAIC, unless the commissioner requests otherwise.
- (b) For insurers and/or companies domiciled in Tennessee and all health maintenance organizations, each quarterly statement shall be filed electronically with the commissioner, and one (1) signed original and one (1) hard copy of each quarterly statement shall also be filed with the commissioner. Domestic insurers and/or companies and health maintenance organizations shall also file the quarterly statement electronically with the NAIC.
- (4) For purposes of this Rule, health maintenance organizations shall file in the same manner as domestic insurers pursuant to Paragraph (2) of this Rule.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118, 56-44-102 and 56-44-103.

0780-01-37-.09 Due Dates for Filing of Annual and Quarterly Statements.

- (1) Original and hard copy annual statement and annual report filings and hard copy jurat pages, if required by this Chapter, shall be mailed on or before March 1 of each year.
- (2) Original and hard copy quarterly filings, if required by this Chapter, shall be mailed on or before May 15, August 15 and November 15 of each year.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118, 56-44-102 and 56-44-103.

0780-01-37-.10 Effect of Filing in Violation of this Chapter.

Financial statements or information not prepared in a manner consistent with all applicable laws and the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in effect for the applicable reporting period shall be deemed not to meet the filing requirements of T.C.A. §§ 56-1-501 and 56-32-108 or Rule 0780-01-37-.06 and Rule 0780-01-37-.07.

Authority: T.C.A. §56-1-501, 56-2-301, 56-32-108, 56-32-118, and 56-44-102(a)(1).

0780-01-37-.11 Violation and Penalties.

- (1) Any insurer or company that fails to make and file its annual statement in the form and time provided by this Chapter shall be subject to the applicable penalties provided for by T.C.A. § 56-1-502 and 56-44-104, as well as such other sanctions provided for by law.
- (2) Any health maintenance organization that fails to file its annual report in the form and time provided by T.C.A. § 56-32-108 and this Chapter shall be subject to the applicable penalties provided for by T.C.A. § 56-1-801 and 56-44-104, as well as such other sanctions provided for by law.

Authority: T.C.A. §56-1-501, 56-2-305, 56-1-801, 56-2-301, 56-1-502, 56-32-108, 56-32-118, 56-44-102(a)(1) and 56-44-104.

0780-01-37-.12 Severability.

If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Chapter and the application of such provision to other persons or circumstance shall not be affected thereby. To this end, the provisions of this chapter are declared severable.

Authority: T.C.A. §§ 56-1-501, 56-2-301, 56-32-108, 56-32-118 and 56-44-102.

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

	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 on 02/11/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/27/08

Notice published in the Tennessee Administrative Register on: 07/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 08/15/08

Date: 2/11/09

Signature: Leslie A. Newman

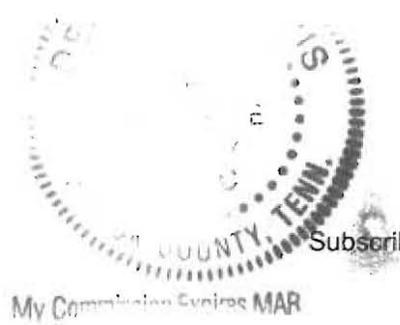
Name of Officer: Leslie A. Newman

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 2/11/09

Notary Public Signature: Cherise M Lewis

My commission expires on: 3/5/12



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

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
4-6-09
Date

Department of State Use Only

Filed with the Department of State on: 4/15/09

Effective on: 6/29/09

Tre Hargett
Tre Hargett
Secretary of State

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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.

On August 15, 2008, a rulemaking hearing was held by Tony Greer, Assistant General Counsel, by designation of Leslie A. Newman, Commissioner, at the offices of the Department of Commerce and Insurance. This hearing, conducted pursuant to the requirements of the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et. seq.*, allowed the Commissioner of Commerce and Insurance and her designees to hear public comments and responses to the proposed rule. The rule is being promulgated pursuant to Tenn. Code Ann. §§ 56-1-501, 56-2-301, 56-2-305, 56-1-502, 56-32-118, and 56-44-102.

The Commissioner solicited comments from the public by causing notice of the hearing to be published in accordance with the requirements of Tenn. Code Ann. § 4-5-203. The Commissioner received oral comments at the rulemaking hearing.

Comment

General

It was commented that the proposed amendments to the Annual Statement Filing Requirements rule should state that market conduct surveillance information will not be required to be submitted with the annual statements.

Agency Response to Comment

The Department does not require submission of market conduct surveillance information at this time. However, should the Department require such market conduct surveillance information to be submitted at a future date, it cannot be said with certainty that such market conduct surveillance information will be required to be submitted with the annual statements. Therefore, the Department disagrees with the comment.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Department of Commerce and Insurance has considered whether the proposed amendments in this notice of rule making hearing are such that they will have an economic impact on small business (business with fifty (50) or fewer employees). The proposed amendments are not anticipated to have a significant economic impact affecting small businesses. The proposed amendments will allow foreign licensed insurance companies to file their annual statements with the National Association of Insurance Commissioners electronically, instead of duplicative filing with the Tennessee Department of Commerce and Insurance. The promulgation of these proposed amendments is meant to reduce the paperwork and cost of filing annual statements with the Tennessee Department of Commerce and Insurance.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) These proposed amendments will apply to all small businesses that are subject to regulation as insurance companies as found in Title 56 of the Tennessee Code Annotated.
- (2) The proposed amendments allow foreign licensed insurance companies to file annual and quarterly financial statements electronically with the National Association of Insurance Commissioners, and allow domestic insurance companies to file annual and quarterly financial statements with the Department of commerce and Insurance and the National Association of Insurance Commissioners. Health Maintenance Organizations will also be allowed to file annual reports electronically with the Department of commerce and Insurance and the National Association of Insurance Commissioners..
- (3) The effect on small businesses is negligible. The proposed amendments do not place any new requirements on insurance companies. The proposed amendments and new rule merely give insurance companies the option of filing electronically if the insurance company elects to do so.
- (4) There are no alternative methods to eliminate the rules and language in conflict with existing state law.
- (5) There are other state counterparts.
- (6) Small businesses that are subject to regulation as insurance companies as found in Title 56 of the Tennessee Code and write less than \$1,000,000 in yearly direct premiums or assume less than \$1,000,000 of premiums under a reinsurance contract are exempt from filing annual audited financial reports. All insurance companies are required by statute to file annual statements. Exempting small business, that are subject to regulation as insurance companies by the Department of Commerce and Insurance, would have the effect of eliminating small businesses from having the ability to file annual statements.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 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 amendments, that the Department is proposing, will change the existing Chapter 0780-1-37 Annual Statement Filing Requirements rule by allowing foreign licensed insurance companies to file annual and quarterly statements with the NAIC by requiring domestic insurance companies to file hard copies of annual and quarterly statements with the Department of Commerce and Insurance and to file annual and quarterly statements electronically with the NAIC, and finally, by requiring domestic non-multistate companies to file hard copies of annual and quarterly statements with the Department of Commerce and Insurance and to file annual and quarterly statements electronically with the Department of Commerce and Insurance.

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

The statutes authorizing amendments to Chapter 0780-1-37 are Tenn. Code Ann. §§ 56-1-501, 56-2-301, 56-2-305, 56-1-502, 56-32-118, and 56-44-102.

- (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 insurers and health maintenance organizations.

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

None.

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

None.

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

Larry C. Knight, Jr., Assistant Commissioner for Insurance; Tony Greer, Assistant General Counsel.

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

Tony Greer, Assistant General Counsel.

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

Second Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 741-2199.

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

None.

