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Sequence Number: 04-17-12  
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 File Date: 07/20/2012

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Real Estate Commission
<b>Division:</b>	Regulatory Boards
<b>Contact Person:</b>	Julie Cropp
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	(615) 532-6303
<b>Email:</b>	julie.cropp@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, 12 <sup>th</sup> Floor, Nashville, TN 37243
<b>Phone:</b>	(615) 741-0481
<b>Email:</b>	don.coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

<b>Address 1:</b>	Davy Crockett Tower, Room 160		
<b>Address 2:</b>	500 James Robertson Parkway		
<b>City:</b>	Nashville		
<b>Zip:</b>	37243		
<b>Hearing Date :</b>	06/14/12		
<b>Hearing Time:</b>	1:00 P.M.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
1260-07	Vacation Lodging Services
Rule Number	Rule Title
1260-07-.01	Scope
1260-07-.02	Designated Agent Qualifications
1260-07-.03	Designated Agent Responsibilities

1260-07-.04	Civil Penalties
1260-07-.05	Advertising
1260-07-.06	Instructor Qualifications
1260-07-.07	Fees

Chapter 1260-07  
Vacation Lodging Services

New Rules

1260-07-.01	Scope
1260-07-.02	Designated Agent Qualifications
1260-07-.03	Designated Agent Responsibilities
1260-07-.04	Civil Penalties
1260-07-.05	Advertising
1260-07-.06	Instructor Qualifications
1260-07-.07	Fees

1260-07-.01 Scope. The rules in Chapter 1260-07 only apply to persons who perform vacation lodging services and vacation lodging service firms, as defined and governed under T.C.A. § 62-13-104(b).

Authority: T.C.A. §62-13-104.

1260-07-.02 Designated Agent Qualifications

To obtain a designated agent license, applicants must meet the following prerequisites:

- (1) Applicants must have obtained a high school diploma or general education diploma;
- (2) Applicants must have certified proof of completion of eight (8) hours of pre-licensing education; and
- (3) Applicants shall not be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is longer in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

Authority: T.C.A. §62-13-104.

1260-07-.03 Designated Agent Responsibilities

- (1) The designated agent shall be responsible for supervising all employees of the firm.
- (2) Designated agents shall be reasonably available to manage and supervise each vacation lodging service office during regular business hours.
- (3) The designated agent shall be responsible for maintaining the vacation lodging service escrow account.

Authority: T.C.A. §62-13-104.

1260-07-.04 Civil Penalties.

- (1) The Commission may, in a lawful proceeding against any person required to have a designated agent license and/or a vacation lodging services license, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

Violation	Penalty
T.C.A. § 62-13-104(b)(3)(C)	\$ 200 ---- 1000
T.C.A. § 62-13-104(b)(3)(D)(i)	200 ---- 1000
T.C.A. § 62-13-104(b)(7)(B)	
(i)	250 ---- 1000
(ii)	250 ---- 1000
(iii)	300 ---- 1000
(iv)	100 ---- 1000
(v)	300 ---- 1000
(vi)	200 ---- 1000
(vii)	100 ---- 1000
(viii)	200 ---- 1000
(ix)	300 ---- 1000
(x)	300 ---- 1000
(xi)	50 ---- 1000
(xii)	250 ---- 1000
(xiii)	200 ---- 1000
T.C.A. § 62-13-104(b)(8)(A)(ii)	200 ---- 1000
T.C.A. § 62-13-104(b)(9) (A)	25 ---- 1000
(B)	25 ---- 1000
Any Commission Rule or Order	50 ---- 1000

(2) Each day of a continued violation may constitute a separate violation.

(3) In determining the amount of a civil penalty, the Commission may consider such factors as the following:

- (a) whether the amount imposed will be a substantial economic deterrent to the violation;
- (b) the circumstances leading to the violation;
- (c) the severity of the violation and the risk of harm to the public;
- (d) the economic benefits gained by the violator as a result of non-compliance; and
- (e) the interest of the public.

Authority: T.C.A. §62-13-104 and 56-1-308.

#### 1260-07-.05 Advertising

(1) All advertising, regardless of its nature or medium, promoting vacation lodging service rentals shall prominently display the following information:

- (a) The firm name of the vacation lodging service, as registered with the Commission; and
- (b) The vacation lodging service firm license number.

(2) All internet home pages and rental agreement confirmation pages for vacation lodging service firms shall prominently display the vacation lodging service firm name, as registered with the Commission, and the vacation lodging service firm license number. The requirements of subsection (1) of this rule shall not apply to internet advertising.

Authority: T.C.A. §62-13-104.

#### 1260-07-.06 Vacation Lodging Services Instructor Qualifications

(1) To obtain certification as an instructor of vacation lodging services, applicants must meet the following prerequisites:

- (a) Applicants must have obtained a high school diploma or general education diploma;
- (b) Applicants must not have any previous criminal convictions involving crimes of dishonesty or false statement;
- (c) Applicants must also:
  - 1. hold a license as a designated agent under the Vacation Lodging Services Act; or
  - 2. possess a minimum of three (3) years experience in vacation lodging services.
    - i. If a course concerns any other field in which a degree, certification, or other recognized designation is commonly awarded then the instructor must have earned that degree or designation, or have at least three (3) years of relevant experience in the field.
- (2) The Commission may charge a fee of twenty-five dollars (\$25) for each instructor in an education cycle, in order to review that instructor's qualifications.

Authority: T.C.A. §62-13-104.

1260-07-.07 Fees. The following fees shall apply:

- (1) For the issuance of an original vacation lodging service firm or original designated agent license, a fee to be paid to the Commission of one hundred dollars (\$100.00);
- (2) For each renewal of a license, a fee to be paid to the Commission of eighty dollars (\$80.00);
- (3) A fee to be paid to the Commission for the following:
  - (a) Change of firm address, fifty dollars (\$50.00);
  - (b) Change of Designated Agent, twenty-five dollars (\$25.00);
  - (c) Commission manual, ten dollars (\$10.00);
  - (d) Certified copies, one dollar (\$1.00) per page;
  - (e) Copies, twenty-five cents (\$0.25) per page;
  - (f) Printouts of licensee information, charges will be based upon the cost of producing the printout;
  - (g) Certification of licensure, twenty-five dollars (\$25.00);
  - (h) Change of name, ten dollars (\$10.00);
  - (i) Duplicate license, ten dollars (\$10.00);
  - (j) Bad checks must be made good within five (5) days after the licensee is notified. Any bad check not made good within sixty (60) days of the notification will be subject to a one hundred dollar (\$100.00) fee for collection.

Authority: T.C.A. §62-13-104.

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



Date: 4/20/12

Signature: Julie Cropp

Name of Officer: Julie Cropp

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 4/20/12

Notary Public Signature: [Signature]

My commission expires on: 5/6/12

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Filed with the Department of State on: 04/20/2012

[Signature]

Tre Hargett  
Secretary of State

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