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Sequence Number: 04-18-12  
 Notice ID(s): 1772  
 File Date: 04/20/2012

# 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.

**Agency/Board/Commission:** Tennessee Real Estate Commission  
**Division:** Regulatory Boards  
**Contact Person:** Julie Cropp  
**Address:** 500 James Robertson Parkway, Nashville TN 37243  
**Phone:** (615) 532-6303  
**Email:** 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:

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

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

Address 1:	Davy Crockett Tower, Room 160		
Address 2:	500 James Robertson Parkway		
City:	Nashville		
Zip:	37243		
Hearing Date :	06/14/12		
Hearing Time:	9:00 A.M.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

**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
1260-1	Licensing
Rule Number	Rule Title
1260-1-.12	Fees.

<b>Chapter Number</b>	<b>Chapter Title</b>
1260-02	Rules of Conduct
<b>Rule Number</b>	<b>Rule Title</b>
1260-02-.32	Civil Penalties
1260-02-.38	Death or Extended Absence of Principal Broker

Chapter 1260-01  
Licensing

Amendments

Rule 1260-01-.12 Fees is amended by adding the following language as a new subsection (6):

1260-01-.12 Fees

(6) When any individual applies for an original license as a broker, affiliate broker or time-share salesperson, the applicant shall pay, in addition to the original license fee, a fee in the amount of ten dollars (\$10.00) for deposit into the real estate education and recovery account.

Authority: T.C.A. §§ 62-13-203 and 62-13-208(c)(1).

Chapter 1260-02  
Rules of Conduct

Amendments

Rule 1260-02-.32 Civil Penalties is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read as follows:

1260-02-.32 Civil Penalties

(1) The Commission may, in a lawful proceeding against any person required to be licensed by the commission, 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. § 62-13-103(b)	\$ 50 ---- 1000
T.C.A. § 62-13-301	50 ---- 1000
T.C.A. § 62-13-312(b)	
(1)	250 ---- 1000
(2)	200 ---- 1000
(3)	300 ---- 1000
(4)	100 ---- 1000
(5)	300 ---- 1000
(6)	200 ---- 1000
(7)	300 ---- 1000
(8)	100 ---- 1000
(9)	200 ---- 1000
(10)	300 ---- 1000
(11)	250 ---- 1000
(12)	300 ---- 1000
(13)	300 ---- 1000
(14)	50 ---- 1000
(15)	250 ---- 1000
(16)	250 ---- 1000
(17)	200 ---- 1000
(18)	250 ---- 1000
(19)	250 ---- 1000
(20)	200 ---- 1000

	(21)	100 ---- 1000
T.C.A. § 62-25-103(a)		50 ---- 1000
T.C.A. § 62-25-107(b)		
	(1)	250 ---- 1000
	(2)	250 ---- 1000
	(3)	300 ---- 1000
	(4)	50 ---- 1000
T.C.A. § 66-32-121(f)		
	(1)	250 ---- 1000
	(2)	100 ---- 1000
	(3)	200 ---- 1000
	(4)	300 ---- 1000
	(5)	250 ---- 1000
	(6)	250 ---- 1000
	(7)	400 ---- 1000
	(8)	350 ---- 1000
	(9)	400 ---- 1000
	(10)	250 ---- 1000
Any Commission Rule or Order		50 ---- 1000

- (2) With respect to any person required to be licensed by the Commission as a real estate broker who is not licensed, the Commission 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. § 62-13-102	\$1000
T.C.A. § 62-13-103	\$1000
T.C.A. § 62-13-105	\$1000
T.C.A. § 62-13-109	\$1000
T.C.A. § 62-13-110	\$1000
T.C.A. § 62-13-301	\$1000
T.C.A. § 62-13-312	\$1000

- (3) Each day of a continued violation may constitute a separate violation.
- (4) 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. §§ 56-1-308 and 62-13-203.

Chapter 1260-02  
Rules of Conduct

New Rules

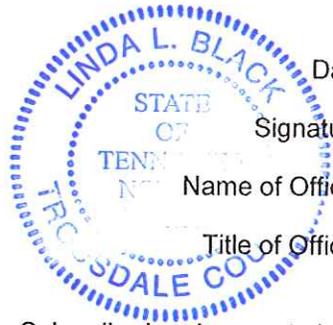
1260-02-.38 Death or Extended Absence of Principal Broker

- (1) The Commission must be notified within ten (10) days of the death, resignation, termination, or incapacity of a principal broker. In the event of an unexplained extended absence of a principal broker, the Commission must be notified within a reasonable time period. At the time of notification, a plan must be submitted which addresses the continuation of operations without a principal broker.

- (2) The Commission may, in its discretion, based on the merits and circumstances of each case, permit a real estate firm to continue operating without a principal broker for a period of time not to exceed thirty (30) days from the date of death, resignation, termination, or incapacity of a principal broker, subject to conditions imposed by the Commission.
- (3) If, within the aforementioned thirty (30) day period, a real estate firm contacts the Commission demonstrating compliance with their initial approved plan and circumstances which require additional time to continue operating without a principal broker, the executive director shall have the authority to grant a thirty (30) day extension to the period originally allowed by the Commission. In the event that a thirty (30) day extension is granted, a new principal broker must be in place no later than the sixty-first (61<sup>st</sup>) day from the date of death, resignation, termination, or incapacity of a principal broker.

Authority: T.C.A. §§ 62-13-203 and 62-13-309.

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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