

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 05-63-15

Rule ID(s): 5944

File Date: 5/6/2015

Effective Date: 8/4/2015

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

*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).*

<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, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 741-3072
<b>Email:</b>	<a href="mailto:Julie.Cropp@tn.gov">Julie.Cropp@tn.gov</a>

**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
1260-01	Licensing
Rule Number	Rule Title
1260-01-.01	Applications for Examinations

(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>)

Rule 1260-01-.01 Applications for Examinations is amended by adding the following language as a new paragraph (5):

(5) Notwithstanding the provisions of paragraph (4) of this rule, if a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied the issuance of a license based solely on the person's past record of criminal activity but shall instead be required to appear before the Commission for the purpose of the Commission considering on a case-by-case basis whether to grant or deny the issuance of the license.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, and 40-29-107.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Wendell Alexander	X				
Marcia Franks	X				
Austin McMullen	X				
John Griess	X				
Diane Hills	X				
Janet DiChiara	X				
Grover Collins	X				
Gary Blume				X	
David Flitcroft				X	

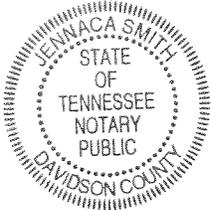
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 01/07/2015 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 3/26/15

Signature: Julie E. Cropp

Name of Officer: Julie E. Cropp

Title of Officer: Assistant General Counsel



MY COMMISSION EXPIRES:  
March 8, 2016

Subscribed and sworn to before me on: March 26, 2015

Notary Public Signature: Jennaca Smith

My commission expires on: March 8, 2016

All proposed 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

April 29, 2015  
Date

Department of State Use Only

RECEIVED  
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SECRETARY OF STATE  
PUBLICATIONS

Filed with the Department of State on: 5/6/2015

Effective on: 8/4/2015

Tre Hargett  
Tre Hargett  
Secretary of State

### 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.

#### Economic Impact Statement:

- (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;

This rule is not expected to have a measurable impact on small businesses.

- (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;

There are no projected reporting, recordkeeping or other administrative costs required for this proposed rule.

- (3) A statement of the probable effect on impacted small businesses and consumers;

There is no expected adverse impact on small businesses as a result of this proposed rule. This proposed rule is expected to assist with the protection of the welfare and safety of the citizens of the State of Tennessee by helping to ensure that all licensees are fit and able to perform the duties and responsibilities necessarily related to real estate licensure.

- (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;

There are no less burdensome, less intrusive, or less costly alternative methods known which will achieve the purpose and objectives of this proposed rule.

- (5) A comparison of the proposed rule with any federal or state counterparts; and

There are no known federal or state counterparts to this rule.

- (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.

Any possible exemption of small businesses from this rule would result in less protection for the citizens of the State of Tennessee.

### **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)

The proposed rule is not projected to have any financial impact on local governments.

**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;

Amendment to Rule 1260-01-.01 Applications for Examinations: This amendment will add a paragraph (5) to the rule which provides that, if a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied issuance of a license based solely on the past criminal record but shall be required to appear before the Commission for the purpose of the Commission considering (on a case-by-case basis) whether or not to grant issuance of the license.

- (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;

Pursuant to T.C.A. § 40-29-107(m)(1), if a person possesses a certificate of employability, the person shall not be denied the issuance of a license based solely on his or her past criminal record. Instead, the person shall appear before the Commission and the Commission shall consider whether to grant or deny the license on a case-by-case basis.

- (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;

The rule most directly affects a person who wishes to obtain licensure with the Commission who possesses a certificate of employability. It is unknown whether those persons urge adoption or rejection of this rule.

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

There are no known opinions of the Attorney General and Reporter or any judicial rulings that directly relate to the rules.

- (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;

There is no known fiscal impact to state and local governments with the promulgation of this rule.

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

Julie Cropp, Assistant General Counsel, Department of Commerce and Insurance, Regulatory Boards Division  
Eve Maxwell, Executive Director, Tennessee Real Estate Commission

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

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- (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

500 James Robertson Parkway, Nashville, Tennessee 37243  
Telephone: (615) 741-3072 or (615) 741-2273; E-mail: Julie.Cropp@tn.gov or Eve.Maxwell@tn.gov

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

No additional information with respect to this rule not already included herein.

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Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, and 40-29-107.

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Austin McMullen	X				
John Griess	X				
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Janet DiChiara	X				
Grover Collins	X				
Gary Blume				X	
David Flitcroft				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 01/07/2015 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

All proposed 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

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