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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. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Home Inspector Licensing Program
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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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-05-12	Home Inspectors
Rule Number	Rule Title
0780-05-12-.02	Definitions
0780-05-12-.04	Application Requirements
0780-05-12-.05	Renewal Requirements
0780-05-12-.06	Fees
0780-05-12-.07	Qualifying and Continuing Education
0780-05-12-.12	Inactive Status
0780-05-12-.13	Insurance
0780-05-12.14	Records Retention
0780-05-12-.15	Change of Address

Chapter 0780-05-12
Home Inspectors

Amendments

Rule 0780-05-12-.02 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

In addition to the definitions contained in T.C.A. § 62-6-302, the following definitions are applicable to this chapter:

- (1) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

- (2) "Continuing Education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal of a license as a home inspector;
- (3) "Home" or "Residence" means any structure consisting of one to four (1-4) dwelling units, intended to be or used principally for residential purposes;
- (4) "Inactive Licensee" means an individual who is not engaged in the business of conducting home inspections and holds a valid, current inactive license issued by the commissioner;
- (5) "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;
- (6) "Licensee" means an individual who holds a current, unexpired license as a home inspector issued by the commissioner;
- (7) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (8) "Qualifying Education" means education that is creditable toward the education requirements required for initial licensure as a home inspector.

Authority: T.C.A. §§ 62-6-302 and 62-6-303(a)(5) [effective July 1, 2006]; and Chapter 65 of the Public Acts of 2005, §§ 3, 4, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-05-12-.04 Application Requirements is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) Any person who desires to obtain a license as a home inspector shall submit an application to the commissioner, along with the required application fee.
- (2) An applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:
 - (a) Is at least eighteen (18) years of age;
 - (b) Has graduated from high school or earned a general education development ("GED") certificate;
 - (c) Has not been convicted of a crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;
 - (d) Is not the subject of a disciplinary enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors;
 - (e) Has successfully completed ninety (90) hours of education approved by the commissioner in the performance of home inspections and the preparation of home inspection reports;
 - (f) Has passed the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors (EBPHI);
 - (g) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and
 - (h) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.
- (3) Reciprocity. The commissioner may grant a license as a home inspector to an individual who holds a like, unexpired license in good standing as a home inspector in that state if the requirements for licensure are

at least equivalent to the requirements for licensure in Tennessee. Such applicant shall file with the commissioner the required application form and fee, along with proof that the applicant holds a current, valid license as a home inspector in another state.

- (4) Temporary Practice Permit: An applicant for licensure as a home inspector, who holds an active home inspector license in another state whose licensure requirements are not considered substantially equivalent for reciprocity and whose spouse is an active member of the armed forces of the United States, who is the subject of a military transfer to Tennessee may be granted a temporary practice permit for up to six (6) months to complete specific education and/or examination requirements where the state of original licensure is not deemed to be substantially equivalent to the licensure requirements in Tennessee as specified in 0780-05-12-.04(3).
- (a) In addition to the requirements of 0780-05-12-.04 (1) & (2) Temporary Practice Permit applicants must provide:
- (i) Evidence that applicant's spouse is a member of the armed forces and is subject to a military transfer to Tennessee;
- (b) The temporary practice permit will expire six (6) months from the date of issuance or upon issuance of a license as a home inspector in Tennessee which ever may occur first.
- (c) No renewal of the temporary practice permit will be granted.
- (d) If a temporary practice permit holder's out-of-state license is revoked, suspended, denied renewal or restricted, then the Commissioner may revoke, suspend, or restrict a permit holder's temporary practice permit.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-305 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-05-12-.05 Renewal Requirements is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) A license issued to a home inspector pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on such date unless renewed.
- (2) A home inspector may renew a current, valid license by submitting an application form approved by the commissioner, the required renewal fee, proof of having completed thirty-two (32) hours of commissioner-approved continuing education and any other information required for renewal, to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (3) If a course has been taken more than once during the same renewal period the hourly educational credit will be counted once for purposes of satisfying the educational requirements for renewal.
- (4) Credit shall not be granted for a repeated course within a three (3) year time period unless the course has undergone a significant update.
- (5) A licensee who fails to pay the renewal fee, or otherwise fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have sixty (60) days after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of \$25.00, submittal of proof of compliance with any other prerequisites to renewal, and payment of an additional late penalty of \$25.00 for each month or fraction of a month that renewal is late.
- (6) Any person seeking renewal of a license more than sixty (60) days after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure and submit proof of having completed thirty-two (32) hours of commissioner-approved continuing education within the previous two (2) years. In considering such reapplication, the commissioner has the discretion to:

- (a) waive reexamination if the exam presented at the time of initial licensure if the exam was completed within the previous five (5) years; or
 - (b) reinstate a license subject to the applicant's compliance with such reasonable conditions as the commissioner may prescribe, including payment of a penalty fee, in addition to the penalty fee provided in paragraph (5), of not more than twenty-five dollars (\$25.00) per month or portion thereof from the date the license expired.
- (7) A fee submitted by mail to the Commissioner for purposes of renewal will be deemed to have been submitted on the date of the official postmark.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-307[effective July 1, 2006]; and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.06 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following so that as amended the rule shall read:

- (1) Non-refundable application fee is one hundred dollars (\$100.00).
- (2) Initial license fee is two hundred dollars (\$200.00).
- (3) The examination fee shall be set by the Board pursuant to its contract with the entity it designated to administer the examination.
- (4) Renewal fee is two hundred dollars (\$200.00) for an active license.
- (5) The late penalty fee is twenty-five dollars (\$25.00) per month for each month or fraction of a month that renewal is late.
- (6) Application fee to place the license in inactive status is fifty dollars (\$50.00).
- (7) Renewal fee for license while in inactive status is fifty dollars (\$50.00).
- (8) Application fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (9) Renewal fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (10) Application for individual course approval is twenty-five dollars (\$25.00) for each course that is not on the pre-approved course list.

Authority: T.C.A. §§ 62-6-303 and 62-6-307 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-05-12-.07 Qualifying and Continuing Education is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) Course approval requirements.
 - (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application 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 email address;
 3. Name of course as it will appear on course certificates;
 4. The location of the courses or programs;
 5. The number and type of education credit, qualifying or continuing, hours requested for each course;
 6. A timed outline which lists the summarized topics covered in each course and upon request a copy of any course materials;
 7. If a prior approved course has substantially changed, a summary of the changes; and
 8. 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. Observing and identifying defects in structural components, foundations, roof coverings;
 2. Insulation and ventilation;
 3. Exterior and interior components;
 4. Plumbing, heating, cooling and electrical systems;
 5. Applicable state laws and rules;
 6. Home Inspection business management;
 7. Home Inspector Ethics;
 8. Tennessee Standards of Home Inspector Practice;
 9. Home Inspection Report Writing.
- (c) "Course hour" is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.
- (d) In addition to accepting courses approved as described in this rule, qualifying and continuing education credits may be granted on an individual basis to an applicant or licensee if the applicant or licensee provides documentation acceptable to the commissioner that shows that the courses meet applicable requirements for the category of credit applied for, including proof that the applicant or licensee attended and successfully completed the course. To be considered for credit, the prescribed form must be received along with a fee of twenty-five dollars (\$25.00) per course.
- (e) 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.
- (f) 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.
- (g) 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 continuing education, each licensee successfully completing the course shall be furnished a certificate certifying completion.

- (h) 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.
 - (i) Approval of any course(s) may be withdrawn by the Commissioner if:
 - (i) The conduct of a provider, an instructor, or any other school representative in either the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;
 - (ii) The course content is based on excluded conduct of a home inspector as identified in 0780-05-12-.10.
 - (j) The required fee from a course provider for approval of courses for qualifying or continuing education shall be fifty dollars (\$50.00) for each course. The application fee is non-refundable.
 - (k) If granted, course approval shall be valid for a period of two (2) years from the date of approval.
 - (l) The provider of an approved course who wishes to renew such approval shall submit an application, on a form approved by the Commission, along with a renewal fee of fifty dollars (\$50.00) for each course, within thirty (30) days prior to the approval's expiration.
 - (m) If a provider fails to renew course approval within thirty (30) days of the approval's expiration date, the provider may, upon payment of a twenty-five dollar (\$25.00) penalty, apply for a late renewal. No late renewals or course approval will be granted if over three (3) months have passed since expiration.
 - (n) State universities, colleges and junior colleges which provide courses for qualifying or continuing education shall be exempt from the fee.
- (2) Instructor qualifications and requirements. A person seeking approval as an instructor shall submit an application on a form approved 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 associate's 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.
 4. Other educational, teaching or professional qualifications determined by the commissioner which constitute an equivalent to (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 their requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.
- (3) In order to renew a license, and in addition to any other renewal requirements, the licensee shall submit to the commissioner a log, on a form provided by the commissioner, showing the type(s) of continuing

education activity claimed, provider, location, duration, instructor's or speaker's name, description of the activity and continuing education units earned, along with the completion certificate(s) furnished by the provider. A licensee shall submit the log and the completion certificate(s) to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.

- (4) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a home inspector 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 earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.

Authority: T.C.A. §§ 62-6-303(a)(4), (5) and 62-6-307 [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Chapter 0780-05-12
Home Inspectors

New Rules

Rule 0780-05-12-.12 Inactive Status
Rule 0780-05-12-.13 Insurance
Rule 0780-05-12-.14 Records Retention
Rule 0780-05-12-.15 Change of Address

Rule 0780-05-12-.12 Inactive Status

- (1) A licensee may request inactive license status by making application to the Commissioner and paying the applicable fifty dollar (\$50.00) fee. A licensee whose license is in inactive status may not directly or indirectly engage in conduct or advertise or claim to be engaging in or conducting the business or acting in the capacity of a home inspector as defined in T.C.A. § 62-6-302. No continuing education shall be required for renewal of an inactive license. Licensees holding an inactive license are not required to maintain general liability or errors and omissions insurance.
- (2) To reactivate an inactive license, licensee shall submit an application for reinstatement on a form as prescribed by the commissioner, accompanied by:
- (a) A reactivation fee of two hundred dollars (\$200.00); and
 - (b) A certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and errors and omissions insurance to cover all home inspection activities contemplated in T.C.A. § 62-6-301 et seq. and the rules promulgated thereunder; and
 - (c) A sworn statement that the licensee has not violated any provisions of the Tennessee Home Inspector Licensing Act of 2005, (T.C.A. 62-6-301, et seq.) or the rules promulgated thereunder while the applicant's license was in inactive status; and
 - (d) If more than two (2) years have passed since the license was placed in an inactive status, the applicant shall, in addition to the requirements set for in T.C.A. 62-6-307(f)(2)(A), also furnish

evidence satisfactory to the commissioner that the applicant has completed thirty-two (32) hours of commissioner-approved continuing education during the twenty-four (24) months immediately preceding the date of application for reinstatement.

- (3) The licensing period for an inactive license shall be identical to the licensing period for the originally issued active license. Inactive licenses shall be renewed biennially.

Authority: T.C.A. § 62-6-307 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.13 Insurance

- (1) All licensees, except those in inactive status, are required to maintain and provide satisfactory proof of a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301. The State of Tennessee shall be named as the certificate holder on the insurance documentation provided by the insurance carrier.
- (2) Licensees shall notify the Board within thirty (30) days of any change to the insurance policy, including but not limited to the expiration or termination of a policy, changes in insurance carrier, term of policy, or coverage dates.

Authority: T.C.A. §§ 62-6-303 and 62-6-308 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.14 Records Retention

All licensed home inspectors shall retain original and true copies or electronic copies of all written contracts and agreements for home inspector services and all home inspection reports for a period of at least three (3) years commencing on the home inspection date.

Authority: T.C.A. § 62-6-303 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.15 Change of Address

All licensed home inspectors shall provide the commissioner with any address change in writing within thirty (30) days of any change.

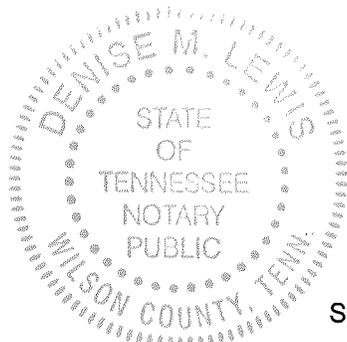
Authority: T.C.A. § 62-6-306 [effective July 1, 2006]; Public Chapter No. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

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 (board/commission/ other authority) on February 13, 2013 (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: January 10, 2012

Rulemaking Hearing(s) Conducted on: (add more dates). March 8, 2012



My Commission Expires

Date: 7-2-14

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 7-2-14

Notary Public Signature: Denise M Lewis

My commission expires on: 2-15-2016

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.

RE Cooper Jr
Robert E. Cooper, Jr.
Attorney General and Reporter
7-30-14

Date

Department of State Use Only

Filed with the Department of State on: 8/16/14

Effective on: 11/4/14

Tre Hargett
Tre Hargett
Secretary of State

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Public Hearing Comments:

Rule 0780-05-12-.04: Temporary Practice Permit. The proposed rule would permit an active member of the armed forces of the United State who is the subject of a military transfer a temporary practice permit for up to six months to complete education/examination requirements where reciprocity does not exist with the prior state.

Mr. Paul Edmonson, a member of the public asked whether the temporary practice permit would fall under reciprocity or if it would be separate whether it would be a good idea to require that the temporary practice permit holder have a license in good standing in order to receive the temporary practice permit. Counsel advised that the new rule provides more than reciprocity because it allows home inspectors who are not licensed to practice in a reciprocal jurisdiction to practice for six months in Tennessee so that they may obtain any educational or examination deficiencies.

Rule 0780-05-12-.07 Qualifying and Continuing Education is amended to include certain specific courses.

Mr. Michael Amick, a member of the public asked whether there was a provision for a home inspector to gain a termite inspection certification. Ray Bair, of the Home Inspector Advisory Board responded that a pest inspection certification would have to be totally separate from the home inspector license.

Mr. Michael Ray of Home Check Inspections of Johnson City, TN stated by letter that the approved training is too restrictive and that training involving energy audits have made him a better inspector but this training has been rejected in the past. The Director, Nikole Avers responded that energy audit course work has never been submitted for approval but should an application be received it will be considered. Further a home inspector can apply for individual course approval as well.

Rule 0780-05-12-.07 Qualifying and Continuing Education is amended to include provision to allow the Commissioner to withdraw approval for courses and provide for course renewal.

Mr. Ray Baird, member of the Home Inspector Advisory Board asked how the rules regarding renewal of courses will apply to existing courses – will they simply fall off or will there be a thirty (30) day grace period. The Home Inspector Program's Executive Director, Nikole Avers responded that the program will check with the providers to see which courses are currently being offered and that at the courses would be assigned an expiration date at the time of application and that the provider would have an opportunity to resubmit the course for approvals.

Rule 0780-05-12-.12 Inactive Status allows a licensee to move a license from active to inactive status.

Mr. Michael Amick, a member of the public indicated concern regarding rule language that indicated that there was no continuing education requirement while in inactive status. Mr. Amich stated that he and some members of the local chapter of InterNACHI inspectors were opposed. Mr. Hardee, a member of the public indicated that he would like to see a time limit on the period of inactivity. Mr. Edmonson also indicated that he would like to see a limit on the time of inactivity and also that the continuing education requirements be met prior to moving to an active license.

Counsel read T.C.A. 62-6-307, which provides that an inactive license can be reactivated upon application and satisfactory evidence that the applicant has completed thirty two (32) hours of continuing education in the proceeding twenty four (24) months.

Rule 0780-05-1-.13 requires licensees to maintain and provide satisfactory proof of insurance and any changes to the insurance policy within thirty (30) days.

Mr. Paul Edmonson, a member of the public stated that there was no clear rule requiring the licensee to list the State as the insurance carrier and that the requirement to name the State on the proof of insurance can sometimes cost a little more.

Counsel indicated that there may be general rule making authority which would allow a requirement that the licensee list the State of TN as the certificate holder on the proof of insurance. The rule was amended to include the requirement that the State of Tennessee be named as the certificate holder by the insurance carrier.

Rule 0780-05-12-.14 Records Retention requires a home inspector to retain records related to a home inspection for three (3) years from when the report as provided to the client.

Mr. Ray Baird stated that he would like to see a clarification regarding whether the retention clock starts on the date the client receives the report or the date the report was prepared. Mr. Edmonson suggested that the clock should start on the home inspection date.

Mr. Michael Ray of Home Check Inspections of Johnson City, TN stated by letter that the three (3) year records retention requirement implies that the licensees liability is also limited to three (3) years and that the rule should state such explicitly. As a result of the unlimited period of time where a licensee can be liable many retired home inspectors continue to purchase insurance for protection.

Counsel responded that the statute of limitations for home inspectors cannot be addressed at the rulemaking hearing.

The rule was amended to reflect that the records retention clock starts on the date of the home inspection.

Rule 0780-05-12-.15 requires home inspector licensees to provide the program with any updated addresses within thirty (30) days of any change.

Mr. Amick, a member of the public stated that a requirement to add an email address should be added to the rule. The Administrative Director responded that the rule is not intended to require everyone to submit an email address although they are welcome to do so. The Director states that a rule requiring an email address is excessive and failing to provide an email address should not be grounds for discipline.

Regulatory Flexibility Addendum

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:

These amendments and new rules would impact all small business performing home inspector services in the state. There are approximately four hundred twenty-five (425) licensees in the state of Tennessee.

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 foreseen increased costs as a result of these amendments.

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

There's no expected adverse impact on small businesses as a result of these amendments and new rules. There's no expected adverse impact on consumers as a result of these amendments and new rules.

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 known alternative methods to achieve the goals exhibited by these rules.

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

There are no federal counterparts to 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:

There will be no exemptions created by these rules.

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 amendments will have no impact on local government.

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 rules add the definition of inactive licensee, provide that applicants must pass the National Home Inspector Examination, limits the number of time a particular course can be repeated for continuing education credit, provides fees for inactive status and application fees for education, adds certain subjects that are acceptable for continuing education, allows a licensee to move an active licens to inactive, requires the licensee to provide any changes to insurance, requires the retention of records and requires licensees to notify the Board of any address change.

- (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;

None.

- (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;

Unknown.

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

There are no attorney general opinions or any judicial rulings that directly relate to the 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;

Because of the increased fees, the rules will likely increase the revenues of the agency. The fiscal impact is minimal.

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

Keeling R. Baird, Assistant General Counsel
Nikole Avers, Executive Director

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

Keeling R. Baird, Assistant General Counsel
Nikole Avers, Executive Director

(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 Pkwy.
Nashville, TN 37243
615-532-6304
Keeling.R.Baird@tn.gov

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

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 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. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Home Inspector Licensing Program
Contact Person:	Keeling R. Baird
Address:	500 James Robertson Pkwy., Nashville, TN
Zip:	37243
Phone:	615-532-6303
Email:	Keeling.R.Baird@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
0780-05-12	Home Inspectors
Rule Number	Rule Title
0780-05-12-.02	Definitions
0780-05-12-.04	Application Requirements
0780-05-12-.05	Renewal Requirements
0780-05-12-.06	Fees
0780-05-12-.07	Qualifying and Continuing Education
0780-05-12-.12	Inactive Status
0780-05-12-.13	Insurance
0780-05-12-.14	Records Retention
0780-05-12-.15	Change of Address

Chapter 0780-05-12
 Home Inspectors

Amendments

Rule 0780-05-12-.02 Definitions is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

In addition to the definitions contained in T.C.A. § 62-6-302, the following definitions are applicable to this chapter:

- (1) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;
- (2) "Continuing Education" means education that is creditable toward the education requirements that must be satisfied as a prerequisite for renewal of a license as a home inspector;
- (3) "Home" or "Residence" means any structure consisting of one to four (1-4) dwelling units, intended to be or used principally for residential purposes;

- ~~(4) "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;~~
- (4) "Inactive Licensee" means an individual who is not engaged in the business of conducting home inspections and holds a valid, current inactive license issued by the commissioner;
- (5) "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;
- (6) "Licensee" means an individual who holds a current, unexpired license as a home inspector issued by the commissioner;
- (7) "Provider" means an individual or entity offering courses approved by the commissioner for qualifying education or continuing education credit hours;
- (8) "Qualifying Education" means education that is creditable toward the education requirements required for initial licensure as a home inspector.

0780-5-12-.04 APPLICATION REQUIREMENTS is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- ~~(1) Beginning July 1, 2006, a Any person who desires to obtain a license as a home inspector shall submit an application to the commissioner, along with the required application fee.~~
- ~~(2) On or after July 1, 2006 but before December 28, 2006, an applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:~~
- ~~(a) Is at least eighteen (18) years of age;~~
- ~~(b) Has graduated from high school or earned a general education development ("GED") certificate;~~
- ~~(c) Has not been convicted of a felony or any other crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;~~
- ~~(d) Has been principally engaged in the performance of home inspections in Tennessee for at least two (2) years preceding that date of the application;~~
- ~~(e) Has completed at least one hundred fifty (150) home inspections for compensation;~~
- ~~(f) Has passed an examination approved by the commissioner;~~
- ~~(g) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and~~
- ~~(h) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.~~
- (2) An applicant for licensure shall furnish evidence satisfactory to the commissioner that the applicant:
- (a) Is at least eighteen (18) years of age;
- (b) Has graduated from high school or earned a general education development ("GED") certificate;
- (c) Has not been convicted of a crime that has a direct bearing on the applicant's ability to perform competently and fully as a licensee;
- (d) Is not the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors;
- (e) Has successfully completed ninety (90) hours of education approved by the commissioner in the performance of home inspections and the preparation of home inspection reports;

- (f) Has passed the National Home Inspector Examination developed by the Examination Board of Professional Home Inspectors (EBPHI);
 - (g) Has a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00); and
 - (h) Has a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. and these rules.
- ~~(3) Reciprocity. The commissioner may grant a license as a home inspector to a nonresident of this state an individual who holds a like, unexpired license in good standing as a home inspector in the individual's resident that state if the requirements for licensure are at least equivalent to the requirements for licensure in Tennessee. Such applicant shall file with the commissioner the required application form and fee, along with proof that the applicant holds a current, valid license as a home inspector in another state.~~
- (3) Reciprocity. The commissioner may grant a home inspector license to a nonresident of this state who holds a like, unexpired license in good standing as a home inspector in the individual's resident state if the requirements for licensure are at least equivalent to the requirements for licensure in Tennessee. Applicants for a reciprocal license shall file with the commissioner the required application form and fee, along with proof that the applicant holds a current, valid license as a home inspector in another state.
- (4) Temporary Practice Permit: An applicant for licensure as a home inspector, who holds an active home inspector license in another state whose licensure requirements are not considered substantially equivalent for reciprocity as specified in 0780-5-12-.0413 and whose spouse is an active member of the armed forces of the United States, who is the subject of a military transfer to Tennessee may be granted a temporary practice permit for up to six (6) months to complete specific education and/or examination requirements.
- (a) In addition to the requirements of 0780-5-12-.04 (1) & (2) Temporary Practice Permit applicants must provide:
 - (i) Evidence that applicant's spouse is a member of the armed forces and is subject to a military transfer to Tennessee;
 - (b) The temporary practice permit will expire six (6) months from the date of issuance or upon issuance of a license as a home inspector in Tennessee which ever may occur first.
 - (c) No renewal of the temporary practice permit will be granted.
 - (d) If a temporary practice permit holder's out-of-state license is revoked, suspended, denied renewal or restricted, then the Commissioner may revoke, suspend, or restrict a permit holder's temporary practice permit.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-305 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-5-12-.05 RENEWAL REQUIREMENTS is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) A license issued to a home inspector pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on such date unless renewed.
- (2) A home inspector may renew a current, valid license by submitting an application form approved by the commissioner, the required renewal fee, proof of having completed thirty-two (32) hours of commissioner-approved continuing education and any other information required for renewal, to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- ~~(3) A licensee seeking to renew a license within the thirty (30) days immediately prior to the expiration date of the license may renew the license by submitting any required documentation, the fee for renewal, and a late penalty of \$25.00.~~

- (3) If a course has been taken more than once during the same renewal period the hourly educational credit will be counted once for purposes of satisfying the educational requirements for renewal.
- (4) Credit shall not be granted for a repeated course within a three (3) year time period unless the course has undergone a significant update.
- (5) A licensee who fails to pay the renewal fee, the applicable late penalty, or otherwise fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have sixty (60) days after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of \$25.00, submittal of proof of compliance with any other prerequisites to renewal, and payment of an additional late penalty of \$25.00 for each month or fraction of a month that renewal is late.
- (6) Any person seeking renewal of a license more than sixty (60) days after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure and submit proof of having completed thirty-two (32) hours of commissioner-approved continuing education within the previous two (2) years. In considering such reapplication, the commissioner has the discretion to:
 - (a) ~~waive reexamination or additional education requirements beyond the examination and education presented at the time of initial licensure; or~~
 - (a) waive reexamination if the exam presented at the time of initial licensure was completed within the previous five (5) years; or
 - (b) reinstate a license subject to the applicant's compliance with such reasonable conditions as the commissioner may prescribe, including payment of a penalty fee, in addition to the penalty fee provided in paragraph (5), of not more than twenty-five dollars (\$25.00) per month or portion thereof from the date the license expired.
- (7) A fee submitted by mail to the commissioner for purposes of renewal will be deemed to have been submitted on the date of the official postmark on such mail.

Authority: T.C.A. §§ 62-6-303(a)(5) and 62-6-307[effective July 1, 2006]; and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-.06 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following so that as amended the rule shall read:

- (1) ~~Non-refundable application fee and initial license fee.....\$300.00~~
- (2) ~~The examination fee will be set by the entity designated by the State to administer the examination.~~
- (3) ~~Renewal fee.....\$200.00~~
- (4) ~~The late renewal penalty fee is \$25.00 per month for each month or fraction of a month that renewal is late.~~
- (1) Non-refundable application fee is one hundred dollars (\$100.00).
- (2) Initial license fee is two hundred dollars (\$200.00).
- (3) The examination fee shall be set by the Board pursuant to its contract with the entity it designated to administer the examination.
- (4) Renewal fee is two hundred dollars (\$200.00) for an active license.
- (5) The late penalty fee is twenty-five dollars (\$25.00) per month for each month or fraction of a month that renewal is late.
- (6) Application fee to place the license in inactive status is fifty dollars (\$50.00).
- (7) Renewal fee for license while in inactive status is fifty dollars (\$50.00).

- (8) Application fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (9) Renewal fee for qualifying or continuing education course approval is fifty dollars (\$50.00).
- (10) Application for individual course approval is twenty-five dollars (\$25.00) for each course that is not on the pre-approved course list.

Authority: T.C.A. §§ 62-06-303 and 62-06-307 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

0780-5-12-.07 QUALIFYING AND CONTINUING EDUCATION is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, the rule shall read:

- (1) Course approval requirements.
 - (a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application 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 email address;
 - 3. Name of course as it will appear on course certificates;
 - 4. The location of the courses or programs;
 - 5. The number and type (qualifying or continuing) of education credit hours requested for each course;
 - 6. ~~Topic outlines, which list~~ A timed outline listing the summarized topics covered in each course and upon request a copy of any course materials;
 - 7. If a prior approved course has substantially changed, a ~~summarization~~ summary of the changes; and
 - 8. 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. Observing and identifying defects in structural components, foundations, roof coverings;
 - 2. Insulation and ventilation;
 - 3. Exterior and interior components;
 - 4. Plumbing, heating, cooling and electrical systems;
 - 5. Applicable state laws and rules;
 - 6. ~~Business management.~~
 - 6. Home Inspection business management;
 - 7. Home Inspector Ethics;
 - 8. Tennessee Standards of Home Inspector Practice; and

9. Home Inspection Report Writing.

~~(c) In addition to accepting courses approved as described in this rule, qualify and continuing education credits may be granted to an applicant or licensee if the applicant or licensee provides documentation acceptable to the commissioner that shows that the courses meet applicable requirements for the category of credit applied for, including proof that the applicant or licensee attended and successfully completed the course.~~

(c) "Course hour" is defined as fifty (50) minutes of teaching out of each sixty (60) minute segment.

(d) In addition to accepting courses approved as described in this rule, qualifying and continuing education credits may be granted on an individual basis to an applicant or licensee if the applicant or licensee provides documentation acceptable to the commissioner that shows that the courses meet applicable requirements for the category of credit applied for, including proof that the applicant or licensee attended and successfully completed the course. To be considered for credit, the prescribed form must be received along with a fee of twenty-five dollars (\$25.00) per course.

(e) 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.

(f) 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.

(g) 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 continuing education, each licensee successfully completing the course shall be furnished a certificate certifying completion.

(h) 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.

(i) Approval of any course(s) may be withdrawn by the commissioner if:

(i) The conduct of a provider, an instructor, or any other school representative in either the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;

(ii) The course content is based on excluded conduct of a home inspector as identified in 0780-5-12-10.

(j) The required fee from a course provider for approval of courses for qualifying or continuing education shall be fifty dollars (\$50.00) for each course. The application fee is non-refundable.

(k) If granted, course approval shall be valid for a period of two (2) years from the date of approval.

(l) The provider of an approved course who wishes to renew such approval shall submit an application, on a form approved by the Commission, along with a renewal fee of fifty dollars (\$50.00) for each course, within thirty (30) days prior to the approval's expiration.

(m) If a provider fails to renew course approval within thirty (30) days of the approval's expiration date, the provider may, upon payment of a twenty-five dollar (\$25.00) penalty, apply for a late renewal. No late renewals or course approval will be granted if over three (3) months have passed since expiration.

(n) State universities, colleges and junior colleges that provide courses for qualifying or continuing education shall be exempt from the fee.

- (2) Instructor qualifications and requirements. A person seeking approval as an instructor shall submit an application on a form approved 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 associate's 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.
 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 their requirements of this subparagraph (2)(b) shall be required to submit a new application in accordance with subparagraph (2)(a) above.
- (3) In order to renew a license, and in addition to any other renewal requirements, the licensee shall submit to the commissioner a log, on a form provided by the commissioner, showing the type(s) of continuing education activity claimed, provider, location, duration, instructor's or speaker's name, description of the activity and continuing education units earned, along with the completion certificate(s) furnished by the provider. A licensee shall submit the log and the completion certificate(s) to the commissioner no earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (4) If a licensee who is not a resident of Tennessee satisfies a continuing education requirement for renewal of a license as a home inspector 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 earlier than one hundred twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.

Authority: T.C.A. §§ 62-6-303(a)(4), (5) and 62-6-307 [effective July 1, 2006], and Chapter 65 of the Public Acts of 2005, §§ 4, 8, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Chapter 0780-05-12
Home Inspectors

New Rules

Rule 0780-05-12-.12 Inactive Status
Rule 0780-05-12-.13 Insurance
Rule 0780-05-12-.14 Records Retention
Rule 0780-05-12-.15 Change of Address

Rule 0780-05-12-.12 Inactive Status

- (1) A licensee may request inactive license status by making application to the Commissioner and paying the applicable fifty dollar (\$50.00) fee. A licensee whose license is in inactive status may not directly or indirectly engage in conduct or advertise or claim to be engaging in or conducting the business or acting in the capacity of a home inspector as defined in T.C.A. § 62-6-302. No continuing education shall be required for renewal of an inactive license. Licensees holding an inactive license are not required to maintain general liability or errors and omissions insurance.
- (2) To reactivate an inactive license, licensee shall submit an application for reinstatement on a form as prescribed by the commissioner, accompanied by:
 - (a) A reactivation fee of two hundred dollars (\$200.00); and
 - (b) A certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and errors and omissions insurance to cover all home inspection activities contemplated in T.C.A. § 62-6-301 et seq. and the rules promulgated thereunder; and
 - (c) A sworn statement that the licensee has not violated any provisions of the Tennessee Home Inspector Licensing Act of 2005, (T.C.A. 62-6-301 et seq.) or the rules promulgated thereunder while the applicant's license was in inactive status; and
 - (d) If more than two (2) years have passed since the license was placed in an inactive status, the applicant shall, in addition to the requirements set forth in T.C.A. 62-6-307(f)(2)(A), also furnish evidence satisfactory to the commissioner that the applicant has completed thirty-two (32) hours of commissioner-approved continuing education during the twenty-four (24) months immediately preceding the date of application for reinstatement.
- (3) The licensing period for an inactive license shall be identical to the licensing period for the originally issued active license. Inactive licenses shall be renewed biennially.

Authority: T.C.A. § 62-06-307 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-13 Insurance

- (1) All licensees, except those in inactive status, are required to maintain and provide satisfactory proof of a current certificate of general liability insurance in the amount of at least five hundred thousand dollars (\$500,000.00) and a current certificate of errors and omissions insurance to cover all home inspection activities contemplated under T.C.A. § 62-6-301 et seq. The State of Tennessee shall be named as the certificate holder on the insurance documentation provided by the insurance carrier.
- (2) Licensees shall notify the Board within thirty (30) days of any change to the insurance policy, including but not limited to the expiration or termination of a policy, changes in insurance carrier, term of policy, or coverage dates.

Authority: T.C.A. §§ 62-06-303 and 62-06-308 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-14 Records Retention

All licensed home inspectors shall retain original and true copies or electronic copies of all written contracts and agreements for home inspector services and all home inspection reports for a period of at least three (3) years commencing on the home inspection date.

Authority: T.C.A. § 62-6-303 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

Rule 0780-05-12-15 Change of Address

All licensed home inspectors shall provide the commissioner with any address change in writing within thirty (30) days of any change.

Authority: T.C.A. § 62-06-306 [effective July 1, 2006]; PUBLIC CHAPTER NO. 230 and Chapter 65 of the Public Acts of 2005, §§ 4, 6, 11, and 12. Administrative History: Public necessity rule filed April 7, 2006; effective through September 19, 2006. Original rule filed July 3, 2006; effective September 16, 2006.

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 (board/commission/ other authority) 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: January 10, 2012

Rulemaking Hearing(s) Conducted on: (add more dates). March 8, 2012

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

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.

Robert E. Cooper, Jr.
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:

Rule 0780-05-12-.04: Temporary Practice Permit. The proposed rule would permit an active member of the armed forces of the United State who is the subject of a military transfer a temporary practice permit for up to six months to complete education/examination requirements where reciprocity does not exist with the prior state.

Mr. Paul Edmonson, a member of the public asked whether the temporary practice permit would fall under reciprocity or if it would be separate whether it would be a good idea to require that the temporary practice permit holder have a license in good standing in order to receive the temporary practice permit. Counsel advised that the new rule provides more than reciprocity because it allows home inspectors who are not licensed to practice in a reciprocal jurisdiction to practice for six months in Tennessee so that they may obtain any educational or examination deficiencies.

Rule 0780-05-12-.07 Qualifying and Continuing Education is amended to include certain specific courses.

Mr. Michael Amick, a member of the public asked whether there was a provision for a home inspector to gain a termite inspection certification. Ray Bair, of the Home Inspector Advisory Board responded that a pest inspection certification would have to be totally separate from the home inspector license.

Mr. Michael Ray of Home Check Inspections of Johnson City, TN stated by letter that the approved training is too restrictive and that training involving energy audits have made him a better inspector but this training has been rejected in the past. The Director, Nikole Avers responded that energy audit course work has never been submitted for approval but should an application be received it will be considered. Further a home inspector can apply for individual course approval as well.

Rule 0780-05-12-.07 Qualifying and Continuing Education is amended to include provision to allow the Commissioner to withdraw approval for courses and provide for course renewal. .

Mr. Ray Baird, member of the Home Inspector Advisory Board asked how the rules regarding renewal of courses will apply to existing courses – will they simply fall off or will there be a thirty (30) day grace period. The Home Inspector Program's Executive Director, Nikole Avers responded that the program will check with the providers to see which courses are currently being offered and that at the courses would be assigned an expiration date at the time of application and that the provider would have an opportunity to resubmit the course for approvals.

Rule 0780-05-12-.12 Inactive Status allows a licensee to move a license from active to inactive status.

Mr. Michael Amick, a member of the public indicated concern regarding rule language that indicated that there was no continuing education requirement while in inactive status. Mr. Amick stated that he and some members of the local chapter of InterNACHI inspectors were opposed. Mr. Hardee, a member of the public indicated that he would like to see a time limit on the period of inactivity. Mr. Edmonson also indicated that he would like to see a limit on the time of inactivity and also that the continuing education requirements be met prior to moving to an active license.

Counsel read T.C.A. 62-6-307, which provides that an inactive license can be reactivated upon application and satisfactory evidence that the applicant has completed thirty two (32) hours of continuing education in the proceeding twenty four (24) months.

Rule 0780-05-1-.13 requires licensees to maintain and provide satisfactory proof of insurance and any changes to the insurance policy within thirty (30) days.

Mr. Paul Edmonson, a member of the public stated that there was no clear rule requiring the licensee to list the State as the insurance carrier and that the requirement to name the State on the proof of insurance can sometimes cost a little more.

Counsel indicated that there may be general rule making authority which would allow a requirement that the licensee list the State of TN as the certificate holder on the proof of insurance. The rule was amended to include the requirement that the State of Tennessee be named as the certificate holder by the insurance carrier.

Rule 0780-05-12-.14 Records Retention requires a home inspector to retain records related to a home inspection for three (3) years from when the report as provided to the client.

Mr. Ray Baird stated that he would like to see a clarification regarding whether the retention clock starts on the date the client receives the report or the date the report was prepared. Mr. Edmonson suggested that the clock should start on the home inspection date.

Mr. Michael Ray of Home Check Inspections of Johnson City, TN stated by letter that the three (3) year records retention requirement implies that the licensees liability is also limited to three (3) years and that the rule should state such explicitly. As a result of the unlimited period of time where a licensee can be liable many retired home inspectors continue to purchase insurance for protection.

Counsel responded that the statute of limitations for home inspectors cannot be addressed at the rulemaking hearing.

The rule was amended to reflect that the records retention clock starts on the date of the home inspection.

Rule 0780-05-12-.15 requires home inspector licensees to provide the program with any updated addresses within thirty (30) days of any change.

Mr. Amick, a member of the public stated that a requirement to add an email address should be added to the rule. The Administrative Director responded that the rule is not intended to require everyone to submit an email address although they are welcome to do so. The Director states that a rule requiring an email address is excessive and failing to provide an email address should not be grounds for discipline.

Regulatory Flexibility Addendum

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:

These amendments and new rules would impact all small business performing home inspector services in the state. There are approximately four hundred twenty-five (425) licensees in the state of Tennessee.

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 foreseen increased costs as a result of these amendments.

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

There's no expected adverse impact on small businesses as a result of these amendments and new rules. There's no expected adverse impact on consumers as a result of these amendments and new rules.

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 known alternative methods to achieve the goals exhibited by these rules.

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

There are no federal counterparts to 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:

There will be no exemptions created by these rules.

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 amendments will have no impact on local government.

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 rules add the definition of inactive licensee, provide that applicants must pass the National Home Inspector Examination, limits the number of time a particular course can be repeated for continuing education credit, provides fees for inactive status and application fees for education, adds certain subjects that are acceptable for continuing education, allows a licensee to move an active licens to inactive, requires the licensee to provide any changes to insurance, requires the retention of records and requires licensees to notify the Board of any address change.

- (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;

None.

- (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;

Unknown.

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

There are no attorney general opinions or any judicial rulings that directly relate to the 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;

Because of the increased fees, the rules will likely increase the revenues of the agency. The fiscal impact is minimal.

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

Keeling R. Baird, Assistant General Counsel
Nikole Avers, Executive Director

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

Keeling R. Baird, Assistant General Counsel
Nikole Avers, Executive Director

- (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

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