

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 08-25-09  
Rule ID(s): 4322-4323  
File Date: 08/24/2009  
Effective Date: 01/29/2010

# Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §4-5-202 and 4-5-207 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 sixty (60) days to the first day of the month subsequent to 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.*

**Agency/Board/Commission:** Office of the Secretary of State  
**Division:** Publications  
**Contact Person:** Richard Arnold  
**Address:** 312 Rosa Parks Blvd. 8<sup>th</sup> Floor  
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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)**

<b>Chapter Number</b>	<b>Chapter Title</b>
1360-01-02	Filing of Rules
<b>Rule Number</b>	<b>Rule Title</b>
1360-01-02-.02	Definitions of Rules
1360-01-02-.04	Forms and the Completion of Forms
1360-01-02-.06	Forms for Rulemaking
<b>Chapter Number</b>	<b>Chapter Title</b>
1360-01-03	Withdrawals of Rules, Stays of Effective Dates, and Withdrawal of Stay of Effective Date
<b>Rule Number</b>	<b>Rule Title</b>
1360-01-03-.01	Definitions

(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>)

1360-01-02-.02 Definitions of Rules is amended by deleting the term “public necessity rules” from the first paragraph so it shall read as follows:

- (1) The term “rules” shall mean rulemaking hearing rules, proposed rules, and emergency rules. Each term mentioned is applicable to its own form.

Authority: Public Chapter 566 of the 106<sup>th</sup> General Assembly

1360-01-02-.02 Definitions of Rules is amended by deleting (4) and (5) in its entirety and replaced with the following:

- (4) Form SS-7040 is applicable to “emergency Rules.” These are filed by an agency pursuant to T.C.A. 4-5-208 (a), where:
  - (a) an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by the chapter would not adequately protect the public; or
  - (b) the rule only delays the effective date of another rule that is not effective; or
  - (c) it is required by the constitution or court order; or
  - (d) it is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedure described in this chapter might jeopardize a federal program or funds; or
  - (e) the agency is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules.

- (5) Reserved

Authority: Public Chapter 566 of the 106<sup>th</sup> General Assembly

1360-01-02-.04(b) Forms and the Completion of Forms is amended by adding a new subpart (v) which shall read as follows:

- (v) Any electronic submission of forms shall not be encrypted. Any transmission of encrypted material to the Secretary of State pursuant to the Uniform Administrative Procedures Act will be rejected and returned to the agency as non compliant.

Authority: T.C.A. 4-5-202(c), 4-5-203(e), 4-5-206(d)

1360-01-02-.06 (3) Forms for Rulemaking is amended by deleting the words “or Public Necessity” from the sentence so it shall read as follows:

- (3) Temporary rule form (Emergency Rules) is SS-7040.

Authority: Public Chapter 566 of the 106<sup>th</sup> General Assembly

1360-01-03-.01(2) Definitions is amended by deleting (2) in its entirety and replacing with the following:

- (2) Stay of Effective Date of Rules – Prior to the effective date of a rule the agency proposing the rule may stay the running of the ninety (90) day period for a duration not to exceed seventy (75) days. Such stay shall become effective at such time as the agency files written notice with the Secretary of State and shall specify the effective length of the stay.

Authority: Public Chapter 566 of the 106<sup>th</sup> General Assembly

1360-01-03-.01(3) Definitions is amended by deleting (3) in its entirety and replacing with the following:

- (3) Withdrawal of Stay of Effective Date – Prior to its expiration, the stay may be withdrawn by the agency. Withdrawal or expiration of the stay shall reactivate the running of the balance of the ninety (90) day period that remained upon the date the stay was filed.

Authority: Public Chapter 566 of the 106<sup>th</sup> General Assembly

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Secretary of State on 7/2/09, and is in compliance with the provisions of TCA 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the secretary of state.

Date: 8/19/09

Signature: [Handwritten Signature]

Name of Officer: Richard Amos

Title of Officer: Director of Publications



Subscribed and sworn to before me on: 19<sup>th</sup> of August 2009

Notary Public Signature: [Handwritten Signature]

My commission expires on: March 10, 2012

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.

[Handwritten Signature]  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
8-20-09  
Date

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Filed with the Department of State on: 8/24/09

Effective on: 1/29/10

[Handwritten Signature]  
Tre Hargett  
Secretary of State

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SECRETARY OF STATE  
PUBLICATIONS

**Regulatory Flexibility Addendum**

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

(If applicable, insert Regulatory Flexibility Addendum here)

Not Applicable

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These changes are required by the passage of House Bill 1815/SB 1388 of the 106<sup>th</sup> General Assembly

- (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;

House Bill 1815/ Senate Bill1388 of the 106<sup>th</sup> General Assembly

- (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;

Agencies with rulemaking authority will be affected by these changes

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

None

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

n/a

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

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Department of State of Tennessee

- (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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Department of State

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

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

none