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Sequence Number: 08-32-09
Rule ID(s): 4330
File Date: 08/27/2009
Effective Date: 11/25/2009

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: Tennessee Real Estate Appraiser Commission
Division: Regulatory Boards
Contact Person: Jesse D. Joseph
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Revision Type (check all that apply):
x Amendment
x 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)

Chapter Number	**Chapter Title**
1255-01	General Provisions
Rule Number	**Rule Title**
1255-01-.12	Registered Trainee
1255-01-.15	Notice to Commission of Addresses and Changes of Address

Chapter Number	**Chapter Title**
Rule Number	**Rule Title**

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(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)

Chapter 1255-01
General Provisions

New Rules

Table of Contents

1255-01-.15 Notice to Commission of Addresses and Changes of Address

1255-01-.15 Notice to Commission of Addresses and Changes of Address

(1) Each state licensed or certified real estate appraiser shall notify the Commission in writing of the address of such appraiser's principal place of business, such appraiser's current residential address, and all such other mailing addresses and addresses at which the appraiser is currently engaging in the business of preparing real property appraisal reports. Whenever a state licensed or certified appraiser changes a principal place of business, residence, mailing address, or other address at which the appraiser is engaged in the practice of real estate appraising, such appraiser shall, within thirty (30) days after such change, notify the Commission of such change in writing.

Authority: T.C.A. §§ 62-39-203, 62-39-204 and 62-39-317.

Amendments

Paragraph (8) of Rule 1255-01-.12 Registered Trainee is amended by deleting this paragraph in its entirety and substituting instead the following new language so that, as amended, this paragraph shall read:

(8) Each registered trainee shall notify the Commission of such registered trainee's current residence and principal place of business, all mailing and other addresses at which the registered trainee is currently engaged in the business of assisting in the preparation of real estate appraisal reports, and the name of the registered trainee's supervising appraiser(s). When a registered trainee changes any of the above addresses or supervising appraiser(s), the registered trainee shall notify the Commission, in writing, of such change within thirty (30) days thereafter.

Authority: T.C.A. §§ 62-39-203, 62-39-204 and 62-39-304.

Paragraph (10) of Rule 1255-01-.12 Registered Trainee is amended by deleting subparagraph (c) in its entirety and substituting instead the following new subparagraph (c), and by adding a new subparagraph (g), so that, as amended, these subparagraphs shall read:

(c) A supervising appraiser shall ensure that the appraisal reports prepared by the registered trainee are prepared under the supervising appraiser's direct supervision. "Direct Supervision" of a registered trainee means that a supervising appraiser shall:

1. Accompany the registered trainee and personally inspect each subject property with the

registered trainee on all assignments until the trainee has completed five hundred (500) hours of acceptable appraisal experience, and accompany the registered trainee and personally inspect each subject property with the registered trainee on all assignments that are over fifty (50) miles from the supervising appraiser's office, even after the registered trainee has accumulated over five hundred (500) hours of acceptable appraisal experience;

2. Review the registered trainee's appraisal report(s) to ensure the registered trainee's research of general and specific data has been adequately conducted and properly reported, that the registered trainee's application of appraisal principles and methodologies has been properly applied, that the registered trainee's analysis is sound and adequately reported, and that any analyses, opinions, or conclusions of the registered trainee are adequately developed and reported so that the appraisal report is not misleading;

3. Review the registered trainee's work product and discuss with the registered trainee any edits, corrections or modifications that need to be made to such work product, and make such edits, corrections or modifications as are required to such work product; and

4. Accept responsibility for the appraisal report by signing the appraisal report and certify that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice by:

(i) making a clear and prominent disclosure that the registered trainee has provided significant real property appraisal assistance in each appraisal report in accordance with Uniform Standards of Professional Appraisal Practice Standards Rule 2-2 and Standards Rule 2-3;

(ii) prohibiting the registered trainee from signing any appraisal report or other document involved in the appraisal which states or implies that said trainee is "licensed" or "certified" in any manner, and by prohibiting the registered trainee from engaging in any activity which is limited to licensed or certified appraisers, or which is designed to give third parties the impression that the registered trainee is a licensed or certified appraiser;

(iii) ensuring that the registered trainee gains sufficient knowledge, skills and abilities that will enable such trainee to accomplish all of the following:

(I) Define the appraisal problem, which requires the trainee to:
I. identify and locate the real estate;
II. identify the property rights to be valued;
III. identify the use of the appraisal;
IV. define value(s) to be estimated;
V. establish date(s) of value estimate(s);
VI. identify and describe the scope of the appraisal; and
VII. identify and describe limiting conditions.

(II) Conduct preliminary analysis, and select and collect applicable data, which requires the trainee to:
I. identify general data (regional, city and neighborhood) – social, economic, governmental and environmental factors;
II. identify specific data (subject and comparables) – site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and
III. identify competitive supply and demand in the subject market (inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies.

(III) Conduct an analysis of the subject property, which requires a trainee to analyze:
I. site/improvements;
II. size;
III. costs;
IV. elements of comparison; and
V. units of comparison.

(IV) Conduct a highest and best use analysis (specified in terms of use, time and market participants), which requires a trainee to analyze:
I. land as if vacant and available; and
II. property as improved (existing or proposed).

(V) Estimate land value, including on-site improvements.

(VI) Estimate value of the property using each of the three approaches to value – cost, sales comparison and income capitalization.

(VII) Reconcile each value indication and reconcile the final value estimate.

(VIII) Report estimate(s) of value(s) as defined.

(g) In any appraisal in which a registered trainee has inspected a subject property, the supervising appraiser is also required to disclose in the appraisal report whether the supervising appraiser has inspected the subject property both inside and out, and whether the supervising appraiser has made an exterior inspection of all comparables relied upon in the appraisal.

Authority: T.C.A. §§ 62-39-105, 62-39-203, 62-39-304 and 62-39-324.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
James E. Wade, Jr. Chair	X				
Herbert E. Phillips	X				
Najanna Coleman	X				
Kenneth Woodford	X				
Thomas Carter	X				
Ed Baryla, Ph.D.	X				
William R. Flowers, Jr.	X				
F.Marc Headden	X				
Jason West				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Real Estate Appraiser Commission on 02/09/09, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: *11/26/08*

Notice published in the Tennessee Administrative Register on: *12/15/08*

Rulemaking Hearing(s) Conducted on: (add more dates). *2/09/09*

Date: 06/26/09

Signature:

Name of Officer: Jesse D. Joseph

Title of Officer: Assistant General Counsel
Department of Commerce and Insurance

LINDA L. BLACK
STATE OF TENNESSEE NOTARY PUBLIC
TROUSDALE COUNTY

Subscribed and sworn to before me on: 6/26/09

Notary Public Signature: Linda L. Black

My commission expires on: 5/6/2012

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.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

7-28-09
Date

Department of State Use Only

Filed with the Department of State on: 8/27/09

Effective on: 11/25/09

Tre Hargett by Non Last, POA
Tre Hargett
Secretary of State

RECEIVED
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PUBLICATIONS

MEMORANDUM

RE: Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

This Rulemaking Hearing was conducted at 9:00 a.m. on February 9, 2009, at 710 James Robertson Parkway, 3rd Floor Conference Room, as published in the Tennessee Administrative Register on December 15, 2008, and no comments were received at the hearing, or prior to the hearing, either in person, by mail, e-mail or any other mode of delivery. Therefore, the Commission has no responses.

Regulatory Flexibility Addendum
Pursuant to Public Chapter 464 of the 105th 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)

Economic Impact Statement:

1. Types of small businesses directly affected:

   Both the new rules and the amendments relate to all licensed and certified real estate appraisers, and to registered trainees, irrespective of the size of their appraisal firms or practices.

2. Projected reporting, recordkeeping and other administrative costs:

   These new rules and amendments would not impose any additional reporting, recordkeeping and other administrative costs on licensed and certified real estate appraisers, or upon registered trainees.

3. Probable effect on small businesses:

   These new rules and amendments will have no particular effect on small businesses and will affect all licensees, and certificate holders in the same way.

4. Less burdensome, intrusive or costly alternative methods:

   These new rules and amendments are not burdensome, intrusive or costly.

5. Comparison with federal and state counterparts:

   There are no federal counterparts. The provisions of rule 1255-1-.12(10)(c) as proposed, which clarify the definition of direct supervision of registered trainees by supervising trainees, is modeled on similar rules issued by the appraiser regulatory boards of Oregon, Kentucky, North Carolina, and as recommended by members of the Executive Committee of the Association of Appraiser Regulatory officials (AARO).

6. Effect of possible exemption of small businesses:

   There can be no exemption of small businesses because appraisers are regulated on an individual licensure or certification basis, and businesses are not regulated. Appraisers working within small practices will have the same obligations under these new rules and amendments as appraisers working within larger practices.

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;

1255-1-.15 Notice to Commission of Addresses and Changes of Address. This new rule only applies to licensed and certified real estate appraisers. It requires that they comply with the mandate of T.C.A. § 62-39-317 to provide a written update to the Commission of any changes in the appraiser's principal place of business, residential, mailing and any other addresses (such as P.O., and Private Mail Boxes) at which they are currently engaged in the business, within 30 days after such change. There is no current rule applicable to licensed and certified appraisers, which implements this statutory provision.

1255-1.-12 Registered Trainee. The amendment to paragraph (8) of this rule applies solely to registered trainees working under the supervision of certified real estate appraisers. This amendment requires that registered trainees also provide to the Commission all other addresses (in addition to their residential, and principal place of business addresses) at which they are in the business of assisting in the preparation of real estate appraisals (such as P.O., and Private Mail Boxes). The present language of paragraph (8) of this rule does not require trainees to provide all other addresses. Experience has shown that registered trainees often utilize "other addresses" at which they receive business mail and conduct business, such as P.O. Boxes, and it is important to the administrative and enforcement functions of the Commission to be able to communicate with trainees at such addresses.

1255-1-.12 Registered Trainee. The amendment to paragraph (10)(c) of this rule defines in a detailed fashion the concept of direct supervision of a registered trainee by a supervising appraiser, and clarifies that registered trainees are apprentices and are not licensed or certified appraisers, and that they are not allowed to use such designations (of licensure or certification) that are likely to create misunderstandings on the part of the general public. The current version of paragraph (10)(c) of this rule does not define the concept of direct supervision in as detailed a fashion as the current proposal. The proposed amendment provides far more guidance on exactly what the obligations of the supervising appraiser are.

(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;

There are no federal or state laws or regulations mandating promulgation of these new rules and amendments.

(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;

Licensed and certified real estate appraisers and trainees registered with the Commission are the persons affected by this rule; such persons have not stated any position to Commission and Department of Commerce and Insurance staff regarding these new rules and amendments.

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

I am aware of no opinions of the Attorney General and Reporter, or any judicial ruling that directly affects these new rules and amendments.

(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 will be no increases in state or local government revenues and expenditures resulting from the promulgation of these new rules and amendments.

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

The following individuals possess substantial knowledge and understanding of the rules:

Jesse D. Joseph Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower, 5th Floor Nashville, TN 37243 615-741-3072	Nikole Avers, Administrative Director Tennessee Real Estate Appraiser Commission 500 James Robertson Parkway Davy Crockett Tower Nashville, TN 37243 615-741-1831

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

The following agency representatives will explain the rules at a scheduled meeting of the Government Operations Committees:

Jesse D. Joseph, Assistant General Counsel Office of Legal Counsel	Nikole Avers, Administrative Director Tennessee Real Estate Appraiser Commission

(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

Jesse D. Joseph Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower, 5th Floor Nashville, TN 37243 615-741-3072	Nikole Avers, Administrative Director Tennessee Real Estate Appraiser Commission 500 James Robertson Parkway Davy Crockett Tower Nashville, TN 37243 615-741-1831

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

Please contact Jesse D. Joseph, Assistant General Counsel, should you need additional information.