

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 10-11-16
 Rule ID(s): 6336-6338
 File Date: 10/18/16
 Effective Date: 1/16/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Real Estate Commission
Division:	Regulatory Boards
Contact Person:	Mallorie Kerby
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-532-6304
Email:	Mallorie.kerby@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
1260-01	Licensing
Rule Number	Rule Title
1260-01-.14	Filing of Documents

Chapter Number	Chapter Title
1260-02	Rules of Conduct
Rule Number	Rule Title
1260-02-.02	Termination of Affiliation

Chapter Number	Chapter Title
1260-06	Time-Share Programs
Rule Number	Rule Title
1260-06-.10	Application for Registration

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 1260-01
Licensing
Amendments

Rule 1260-01-.14 Filing of Documents is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Documents may be remitted to the Commission by:
 - (a) Mail;
 - (b) Fax;
 - (c) E-mail;
 - (d) Hand delivery; or
 - (e) Through an online submission approved by the Director containing substantially the same information as the document or form being submitted.
- (2) When documents are remitted to the office of the Tennessee Real Estate Commission by mail for filing, the date of filing shall be determined by the official postmark on such mail. Documents submitted electronically or by hand-delivery shall not be considered filed if received after the Commission's business hours on the date of any applicable deadline.
- (3) The Director is authorized to develop a process for the online submission of any of the documents or forms of the Commission. The online submission shall contain substantially the same information as the document or form being submitted and an electronic signature shall be required where a document or form is required to be signed. Nothing in this rule shall require that such an online submission be developed.

Authority: T.C.A. §§ 56-1-302(c) and 62-13-203.

Chapter 1260-02
Rules of Conduct
Amendments

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

- (1) Any licensee or principal broker wishing to terminate the licensee's affiliation with a firm shall submit to the Commission a completed Transfer, Release and Change of Status Form (TREC Form 1) or submit the required information through an online submission. If the request is made using the TREC Form 1, the form must be hand-delivered, faxed, mailed, or e-mailed to the Commission to be effective. The principal broker's supervisory responsibility for the future acts of the licensee shall terminate upon the Commission's receipt of the release form or online submission. The principal broker shall retain a copy of the executed form or confirmation of online

submission, whichever is applicable.

- (2) Within ten (10) days after the date of release, the licensee shall complete the required administrative measures for either change of affiliation or retirement. The licensee shall not engage in any activities defined in § 62-13-102 until a change of affiliation is received and processed by the Commission.
- (3) With regard to firm transfer requests that are completed through an online submission, the Commission recognizes the transfer of an affiliated licensee to a new firm as having been completed at the time that said transfer request is completed online and the transfer confirmation is printed only if the following conditions are met:
 - (a) Prior to the submission of the online transfer request, the principal broker who is receiving the affiliated licensee into his or her firm has verified that the affiliated licensee has an active Tennessee license and current errors and omissions insurance; and
 - (b) The online submission is complete, the submission contains an electronic signature, and payment has been received. If the electronic submission is not complete, does not have an electronic signature, or payment has not been received then the transfer shall not be considered by the Commission to be a valid transfer and the affiliated licensee will be placed into broker release status.
- (4) When a licensee terminates his affiliation with a firm, he shall neither take nor use any property listings or buyer representation agreements secured through the firm, unless specifically authorized by the principal broker in writing.
- (5) Upon demand by a licensee for his release from a firm, it shall be promptly granted by the principal broker and the principal broker shall return the license to the licensee. If the licensee cannot be located then the principal broker may return the license to the Commission.
- (6) If the principal broker is deceased or physically unable to sign the release, or refuses to sign a release, the licensee requesting termination of affiliation must submit to the Commission a notarized Affidavit for Release.
- (7) If the affiliated licensee is deceased or physically unable to sign a release or make an online submission, or refuses to sign a release or make an online submission, the principal broker requesting termination of affiliation must submit to the Commission a completed TREC Form 1 or make an online submission.
- (8) The Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates.

Authority: T.C.A. §§ 62-13-203 and 62-13-310.

Chapter 1260-06
Time-Share Programs
Amendments

Rule 1260-06-.10 Application for Registration is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) An application for registration of a time-share program shall be executed and submitted on the form prescribed by the Commission or through an online submission. In addition to the information required by T.C.A. § 66-32-123(a), the application shall include:
 - (a) Copies of the forms of sales contract, deed, and all other written materials to be used in the normal course of the sale of time-share intervals.
 - (b) Evidence of compliance with the zoning laws of the local government in which the timeshare project is located.

- (c) The name and address of the sales agent to be employed by the developer for the sale of time-share intervals.
- (2) The developer of a time-share project not substantially completed shall also include with the application for registration:
- (a) An estimate, certified by the developer and accompanied by the information or documentation upon which it is based, of the cost to complete the time-share project (as represented in the public offering statement).
 - (b) Sufficient evidence of financial capacity to cover such cost (e.g., financial statement; construction loan documents; etc.).
 - (c) A copy of any contract(s) executed for the construction of the project.
 - (d) A copy of the agreement under which escrow funds are held in accordance with T.C.A. § 66-32-113; or, if alternate financial assurances are obtained as provided in that Section, copies of documents relating to such assurances.
 - (e) Such other materials that the Commission may require to determine that the time-share project will be substantially completed.
- (3) The developer of a time-share project which is subject to an underlying blanket lien or encumbrance shall also include with the application for registration copies of non-disturbance agreements, subordination agreements, lien releases, bonds, or other financial arrangements designed to protect non-defaulting purchasers in accordance with T.C.A. § 66-32-128.

Authority: T.C.A. §§ 66-32-121 and 66-32-123.

Rules of the Tennessee Real Estate Commission
 Chapter 1260-01 Licensing
 Rule .14 Filing of Documents

Chapter 1260-02 Rules of Conduct
 Rule .02 Termination of Affiliation

Chapter 1260-.06 Time-Share Programs
 Rule .10 Application for Registration

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
John Griess	x				
Rick Douglass				x	
Diane Hills	x				
Marcia Franks	x				
Bobby Wood	x				
Fontaine Taylor	x				
Johnny Horne	x				
Gary Blume	x				
Austin McMullen	x				

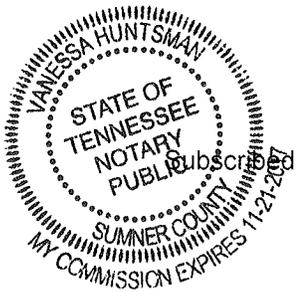
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Real Estate Commission on September 7, 2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 9/30/16

Signature: Mallorie Kerby

Name of Officer: Mallorie Kerby

Title of Officer: assistant General Counsel



Subscribed and sworn to before me on: Sept 30, 2016

Notary Public Signature: Vanessa Huntsman

My commission expires on: Nov 21, 2017

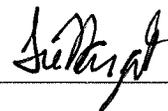
All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slaty III
 Herbert H. Slaty III
 Attorney General and Reporter
10/6/2016
 Date

Department of State Use Only

Filed with the Department of State on: 10/18/16

Effective on: 1/16/17



Tre Hargett
Secretary of State

RECEIVED
2016 OCT 18 PM 1:22
SECRETARY OF STATE
PURIFICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

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 would directly benefit the small businesses that are licensed as real estate firms, vacation lodging services, or registered timeshare developments and as affiliate brokers, broker, and timeshare salespersons (working with firms as independent contractors) in the state of Tennessee by allowing for implementation of an online submission system for more efficient transacting with the Real Estate Commission. There are approximately 38,000 small business licensees (firms or independent contractors) that would potentially benefit from an online submission process.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

There are no projected administrative costs as a result of these amendments. There may be a reduction in costs if licensees and applicants choose to use online submission in lieu of paper forms.

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

There is no expected impact on small business as a result of these amendments other than a potential option for communicating and transacting with Commission more efficiently via an online submission process.

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;

The Commission knows of no other alternative method to achieve the goals exhibited by these rules.

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

T.C.A. § 56-1-302(c): "Notwithstanding any other law to the contrary, the director of the division of regulatory boards of the department may implement a system for electronic submission of complaints or applications for licensure or registration to any regulatory program attached to the division, including any renewal thereof, and to notify licensees electronically of renewals, rulemaking or any other notification."

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;

An exemption for small businesses to these rules would not be beneficial, as these rules provide an option for such small businesses to transact certain business with the Commission online, if they wish.

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 Real Estate Commission foresees no financial impact on any local governments.

Additional Information Required by Joint Government Operations Committee

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

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

The amended rules are designed to allow for electronic submission and processing of applications, renewals, and other administrative transactions.

- (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 is no known federal or state law mandating promulgation of these rules, however, T.C.A. § 56-1-302(c) allows the director of the division of regulatory boards to implement a system for electronic submission and the amended rules will create consistency between this statute and the program rules.

- (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;

All applicants and licensees could be affected by the amended rules if an online submission process is implemented. There are no known objections to the amended rules.

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

There are no known opinions of the Attorney General and Reporter or any judicial ruling that directly relates to these rules.

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

There is an estimated minimal fiscal impact for the promulgation of these rules.

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

Malcolm Young, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 4th Floor
Nashville, TN 37243
615-741-3321

Mallorie Kerby, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
615-741-3072

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

Malcolm Young, Executive Director, Real Estate Commission
Mallorie Kerby, Assistant General Counsel

(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

Malcolm Young, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 4th Floor
Nashville, TN 37243
615-741-3321
Malcolm.young@tn.gov

Mallorie Kerby, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
615-741-3072
Mallorie.kerby@tn.gov

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

There is no known additional relevant information.

Chapter 1260-01
Licensing
Amendments

Rule 1260-01-.14 Filing of Documents is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Documents may be remitted to the Commission by:
 - (a) Mail;
 - (b) Fax;
 - (c) E-mail;
 - (d) Hand delivery; or
 - (e) Through an online submission approved by the Director containing substantially the same information as the document or form being submitted.
- (2) When documents are remitted to the office of the Tennessee Real Estate Commission by mail for filing, the date of filing shall be determined by the official postmark on such mail. Documents submitted electronically or by hand-delivery shall not be considered filed if received after the Commission's office business hours of on the date of any applicable deadline.
- (3) The Director is authorized to develop a process for the online submission of any of the documents or forms of the Commission. The online submission shall contain substantially the same information as the document or form being submitted and an electronic signature shall be required where a document or form is required to be signed. Nothing in this rule shall require that such an online submission be developed.

Authority: T.C.A. §§ 56-1-302(c) and 62-13-203.

Chapter 1260-02
Rules of Conduct
Amendments

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

- (1) Any licensee or principal broker wishing to terminate the licensee's affiliation with a firm shall submit to the Commission a completed Transfer, Release and Change of Status Form (TREC Form 1) or submit the required information through an online submission. If the request is made using the TREC Form 1, the form must be hand-delivered, faxed, mailed, or e-mailed to the Commission to be effective. The principal broker's supervisory responsibility for the future acts of the licensee shall terminate upon the Commission's receipt of the release form or online submission. The principal broker shall retain a copy of the executed form or confirmation of online submission, whichever is applicable.
- (2) Within ten (10) days after the date of release, the licensee shall complete the required administrative measures for either change of affiliation or retirement. The licensee shall not engage in any activities defined in § 62-13-102 until a change of affiliation is received and processed by the Commission.
- (3) With regard to firm transfer requests that which are completed online through an online submission, the Commission recognizes the transfer of an affiliated licensee to a new firm as having been completed at the time that said transfer request is completed online and the transfer confirmation is printed only if the following conditions are met:
 - (a) Prior to the submission of the online transfer request, the principal broker who is

receiving the affiliated licensee into his or her firm has verified that the affiliated licensee has an active Tennessee license and current errors and omissions insurance; and

- (b) ~~A completed and signed TREC Form 1 is received by the Commission within five (5) business days of the date of the online transfer request. If the completed and signed TREC Form 1 is not received by the Commission within five (5) business days of the online submission, The online submission is complete, the submission contains an electronic signature, and payment has been received. If the electronic submission is not complete, does not have an electronic signature, or payment has not been received then~~ the transfer shall not be considered by the Commission to be a valid transfer and the affiliated licensee will be placed into broker release status.
- (4) When a licensee terminates his affiliation with a firm, he shall neither take nor use any property listings or buyer representation agreements secured through the firm, unless specifically authorized by the principal broker in writing.
- (5) Upon demand by a licensee for his release from a firm, it shall be promptly granted by the principal broker and the principal broker shall return the license to the licensee. If the licensee cannot be located then the principal broker may return the license to the Commission.
- (6) If the principal broker is deceased or physically unable to sign the release, or refuses to sign a release, the licensee requesting termination of affiliation must submit to the Commission a notarized Affidavit for Release.
- (7) If the affiliated licensee is deceased or physically unable to sign a release or make an online submission, or refuses to sign a release or make an online submission, the principal broker requesting termination of affiliation must submit to the Commission a completed TREC Form 1 or make an online submission.
- (8) The Commission will not intervene in the settlement of debts, loans, draws, or commission disputes between firms, brokers and/or affiliates.

Authority: T.C.A. §§ 62-13-203 and 62-13-310.

Chapter 1260-06
Time-Share Programs
Amendments

Rule 1260-06-.10 Application for Registration is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) An application for registration of a time-share program shall be executed ~~and notarized~~ and submitted on the form prescribed by the Commission or through an online submission. In addition to the information required by T.C.A. § 66-32-123(a), the application shall include:
- (a) Copies of the forms of sales contract, deed, and all other written materials to be used in the normal course of the sale of time-share intervals.
- (b) Evidence of compliance with the zoning laws of the local government in which the timeshare project is located.
- (c) The name and address of the sales agent to be employed by the developer for the sale of time-share intervals.
- (2) The developer of a time-share project not substantially completed shall also include with the application for registration:
- (a) An estimate, certified by the developer and accompanied by the information or documentation upon which it is based, of the cost to complete the time-share project (as represented in the public offering statement).

- (b) Sufficient evidence of financial capacity to cover such cost (e.g., financial statement; construction loan documents; etc.).
 - (c) A copy of any contract(s) executed for the construction of the project.
 - (d) A copy of the agreement under which escrow funds are held in accordance with T.C.A. § 66-32-113; or, if alternate financial assurances are obtained as provided in that Section, copies of documents relating to such assurances.
 - (e) Such other materials that the Commission may require to determine that the time-share project will be substantially completed.
- (3) The developer of a time-share project which is subject to an underlying blanket lien or encumbrance shall also include with the application for registration copies of non-disturbance agreements, subordination agreements, lien releases, bonds, or other financial arrangements designed to protect non-defaulting purchasers in accordance with T.C.A. § 66-32-128.

Authority: T.C.A. §§ 66-32-121 and 66-32-123.