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Sequence Number: 12-4-15
 Rule ID(s): CEOT3
 File Date: 12-4-15
 Effective Date: 3-3-16

Proposed Rule(s) Filing Form

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

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

Agency/Board/Commission:	Private Protective Services
Division:	Division of Regulatory Boards Department of Commerce and Insurance
Contact Person:	Anthony M. Glandorf
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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
0780-5-2	Private Protective Services
Rule Number	Rule Title
0780-5-2-.05	Fingerprinting

Chapter 0780-5-2-.05

Private Protective Services

Amendments

Rule 0780-05-02-.05 is amended by deleting the substance of the rule in its entirety and substituting instead the following language:

- (1) Any person required to submit classifiable fingerprints by the Act or this chapter shall be deemed to have supplied the required sets of fingerprints if that applicant causes a private company contracted by the State to electronically transmit that applicant's classifiable prints directly to the TBI and FBI to forward an electronic report based on that applicant's fingerprints to the Commissioner.
- (2) Any person required to submit fingerprints by the Act or this chapter shall make the arrangements for the processing of his or her fingerprints with the company contracted by the State to provide electronic fingerprinting services directly and shall be responsible for the payment of any fees associated with the processing of fingerprints to the respective agent authorized by the TBI and FBI.
 - (a) Provided, however, that the Commissioner or the Commissioner's designee may authorize the submission of three (3) sets of classifiable physical fingerprint cards, at the expense of the applicant and rolled by a qualified person acceptable to the Commissioner or the Commissioner's designee, for good cause.
- (3) In the event an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable by nature then the Commissioner may require the applicant to cease all functions as a security guard officer and the applicant shall submit new fingerprints together with any additional fee(s) charged by the TBI and/or FBI for processing the new fingerprints.
- (4) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the Commissioner all processing fees established by the TBI and FBI.
- (5) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
- (6) Applicants shall in all cases be responsible for paying application fees as established by the Commissioner regardless of the manner of fingerprinting.

Authority: T.C.A. §§ 62-35-105(a)(4)(E), 62-35-116(7), 62-35-119(a)(1)(B) and (C), 62-35-129(b), and 62-35-130(a).

* 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)
N/A					

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



Date: 11/3/15

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: 11/3/15

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/16

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

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
11/24/2015
 Date

Department of State Use Only

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Effective on: 3-3-16

Tre Hargett
 Tre Hargett
 Secretary of State

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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:

This rule would affect any small business operating as contract security companies and private security organizations. There are currently 1,106 contract security companies and 558 proprietary security organizations in 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:

This amendment could create a cost to travel to a location to obtain an electronic fingerprint. However, some licensees may be able to provide fingerprints to an electronic fingerprinting vendor electronically without the need to travel to a location.

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

Small businesses would potentially decrease their costs in processing fingerprints by \$12 but would have to do such through a private designated vendor. These rules will have no effect on consumers.

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 proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

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

There are no federal counterparts to the issues addressed by 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:

An exemption of small businesses from the aforementioned requirements would create an increased cost to each individual applicant and create an additional administrative process upon the agency, decreasing its standardization and efficiency in processing applications.

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)

There is no expected impact on local government by the promulgation of this amendment.

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;

This rule amends the requirements for the submission of fingerprints as a part of the application process for registration. Currently, the rule allows applicants to submit physical fingerprint cards for processing. This amendment would only allow electronic fingerprints to be submitted and that they are no longer to be submitted to the Department but either directly to the TBI or to an approved vendor to provide to the TBI. This change was made necessary due to the TBI recently announcing that it will no longer accept physical fingerprint cards from the Department.

- (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 law, regulation or state law mandating promulgation of this rule.

- (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 future security guard registrants will be affected by these rules. Their position is unknown. The Commissioner urges adoption of these 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 this 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;

There is no probable state increase or decrease in local government revenues and expenditures resulting from the promulgation of this amendment.

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

Anthony Glandorf
Chief Counsel
Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

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

Anthony Glandorf
Chief Counsel

Division of Regulatory Boards
Department of Commerce and Insurance

Cody Vest
Executive Director – Private Protective Services
Division of Regulatory Boards
Department of Commerce and Insurance

(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.

This amendment is being promulgated due to a memorandum dated February 3, 2015 from Brad Truitt, Tennessee Compact Office on behalf of the Tennessee Bureau of Investigations. The memo states that effective March 1, 2015, all agencies submitting fingerprints for civil purposes (which applies to this board in all cases) will no longer be able to submit physical fingerprint cards for processing. The memo states that third party vendors may be used to convert physical cards into electronic format. There are also vendors who can take electronic prints directly from the hand. The current rules require physical fingerprint cards for application. Given that the TBI will no longer accept such, it is necessary to amend the application requirements regarding fingerprinting to reflect acceptable processing by the TBI.