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Sequence Number: 12-12-11
Rule ID(s): 5087
File Date: 12/14/2011
Effective Date: 03/13/2012

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:	Department of State
Division:	Business Services
Contact Person:	Nathan Burton
Address:	312 Rosa L. Parks Ave., Snodgrass Tower, 6th Floor, Nashville, TN
Zip:	37243
Phone:	615-741-2819
Email:	nathan.burton@tn.gov

Revision Type (check all that apply):
X 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**
1360-09-01	Workers' Compensation Exemption Registration
Rule Number	**Rule Title**
1360-09-01-.01	Definitions
1360-09-01-.05	Fees

(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 1360-09-01
Workers' Compensation Exemption Registration

Rule 1360-09-01-.01 Definitions is amended by deleting subdivision (h) in its entirety and substituting instead the following language so that, as amended, the rule shall read as follows:

Rule 1360-09-01-.01 Definitions.

(1) (h) "Engaged in the construction industry" means any person or entity assigned to the contracting group as those classifications are designated by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in § 56-5-320; provided, where more than one (1) classification applies, the governing classification, as that term is defined by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in § 56-5-320, shall be used to determine whether the person or entity is engaged in the construction industry.

Authority: T.C.A. §50-6-901(8) and Tenn. Pub. Acts, ch. 422 (2011).

Rule 1360-09-01-.05 Fees is amended by adding the following subdivisions, so that, as amended, the additional subdivisions shall read as follows:

Rule 1360-09-01-.05 Fees.

(1) (i) The fee for the issuance of a second or subsequent construction services provider workers' compensation exemption registration is twenty dollars ($20) per registration.

(j) The fee for the filing of a second or subsequent construction services provider workers' compensation exemption renewal is twenty dollars ($20) per renewal.

Authority: T.C.A. §50-6-912 and Tenn. Pub. Acts, ch. 422 (2011).

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Dept. of State (board/commission/ other authority) on 11/18/11 (mm/dd/yyyy), 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: 09/29/11

Rulemaking Hearing(s) Conducted on: (add more dates). 11/18/11

Date: 11/18/11

Signature: Tre Hargett

Name of Officer: TRE HARGETT

Title of Officer: SECRETARY OF STATE

MONA LEE HART STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.
My Commission Expires NOV. 7, 2012

Subscribed and sworn to before me on: November 18, 2011

Notary Public Signature: Mona Lee Hart

My commission expires on: Nov. 7, 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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

12-12-11
Date

Department of State Use Only

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Filed with the Department of State on: 12/14/2011

Effective on: 03/13/2012

Tre Hargett
Secretary of State

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.

There were no comments, written or oral, filed at the rulemaking hearing for the above-referenced rules held at the Department of State on November 18, 2011.

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 extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The rules do not overlap, duplicate, or conflict with other federal, state, and local government rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule.

The rules are amended to mirror language that is contained in the statute based on passage of Public Chapter 422 of the Public Acts of 2011. Therefore, the rules are clear, concise, and are not ambiguous.

(3) The establishment of flexible compliance and reporting requirements for small businesses.

The rules language that is contained in the statute based on passage of Public Chapter 422 of the Public Acts of 2011 which allows a business owner the option to exempt him/herself from having to carry workers' compensation insurance.

(4) The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses.

The rules mirror the statute and allow a business owner to choose whether or not to opt out of carrying workers' compensation insurance on him/herself.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

Compliance is simplified because it provides a single process for individual business owners involved in the construction industry to exempt themselves from carrying workers' compensation insurance on themselves.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The rules do not impact performance, design, or operational standards for small businesses.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The rules do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs. The rules mirror the statutory language and allow a business owner the option to exempt him/herself from having to carry workers' compensation insurance.

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)

If adopted, these rules will not have any impact on the expenditures or revenues of local government.

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;

The rule is being promulgated because effective October 1, 2011, additional construction services provider workers' compensation exemption registrations are authorized by Tenn. Pub. Act, ch. 422 (2011).

(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;

Tenn. Pub. Acts, ch. 422 (2011) codified in T.C.A. §50-6-901 et seq. which authorizes the Secretary of State to "make necessary provisions for the implementation" of Tenn. Pub. Acts, ch. 422 (2011).

(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;

The persons, organizations, corporations or governmental entities listed below should urge adoption of this rule: Department of Commerce & Insurance, Board for Licensing Contractors, Department of Finance & Administration, Department of Labor and Workforce Development, Department of Revenue, Department of State, Associated Builders and Contractors of Middle Tennessee, Home Builders Association of Tennessee, Insurors of Tennessee, Miller & Martin PLLC, National Federation of Independent Business in Tennessee, Tennessee Attorney General's Office, and the Tennessee General Assembly.

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Senator Bill Ketron - sen.bill.ketron@capitol.tn.gov
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(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 and reporter opinions or 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;

Increase State Revenue – $2,000/Recurring/Employee Misclassification Education and Enforcement Fund

Increase State Expenditures - $44,700 One-Time/ Employee Misclassification Education and Enforcement Fund

Assumptions:
•Based on information provided by the Secretary of State, 100 individuals who are currently listed on the exemption registry will apply. The exemption registry fee is $20. Such fee will be due every two years. Therefore, an increase in state revenue of $2,000 (100 X $20 fee) every two years to the Employee Misclassification Education and Enforcement Fund (EMEEF) beginning in FY11-12.
• Program coding for the exemption registry will be required. An increase in one-time state expenditures of $44,700 for 360 contractor programming hours and 108 contractor analyst coding hours. •

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

Nathan Burton, Director of Business Services, Department of State, nathan.burton@tn.gov, 615-741-2819

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

Nathan Burton, Director of Business Services, Department of State, nathan.burton@tn.gov, 615-741-2819

(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

Nathan Burton, Director of Business Services, Department of State, 312 Rosa L. Parks, Ave., Snodgrass Tower,

6th Floor, Nashville, TN, 37243. 615-741-2819, nathan.burton@tn.gov

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

Not applicable

REDLINE

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Sequence Number: 12-12-11
Rule ID(s): 6082
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. TCA Section 4-5-205

Agency/Board/Commission:	Department of State
Division:	Business Services
Contact Person:	Nathan Burton
Address:	312 Rosa L. Parks Ave., Snodgrass Tower, 6th Floor, Nashville, TN
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Email:	nathan.burton@tn.gov

Revision Type (check all that apply):
X 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**
1360-09-01	Workers' Compensation Exemption Registration
Rule Number	**Rule Title**
1360-09-01-.01	Definitions
1360-09-01-.05	Fees

(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 1360-09-01
Workers' Compensation Exemption Registration

Rule 1360-09-01-.01 Definitions is amended by deleting the text of subdivision (h) in its entirety and substituting instead the following language so that, as amended, subdivision (h) shall read as follows:

Rule 1360-09-01-.01 Definitions.

(1) The following terms shall have the respective meanings provided in this rule.

(a) "Active and in good standing as reflected in the records of the secretary of state" means a corporation, limited liability company, or partnership that is in existence, registered or authorized to transact business in this state as reflected in the records of the secretary of state; and in the case of a corporation, limited liability company, limited liability partnership, or limited partnership, such entity is in good standing with the Tennessee department of revenue.

(b) "Board" means the state board for licensing contractors.

(c) "Commercial construction project" means any construction project that is not:

1. The construction, erection, remodeling, repair, improvement, alteration or demolition of one, two, three or four family unit residences not exceeding three stories in height or accessory use structures in connection with the residences.

2. The construction, erection, remodeling, repair, improvement, alteration or demolition of any building or structure for use and occupancy by the general public which, pursuant to T.C.A. §62-6-112(f)(2), a small commercial building contractor is authorized to bid on and contract for.

3. Performed by any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, waste water services, telephone service, telecommunications service, cable service, or internet service or any combination thereof, for sale to consumers in any particular service area.

(d) "Construction project" means the construction, erection, remodeling, repair, improvement, alteration or demolition of a building, structure or other undertaking; provided that if a general contractor contracts to erect, remodel, repair, improve, alter or demolish multiple buildings, structures or undertakings in one contract, all such buildings, structures or undertakings described in such contract shall constitute one construction project.

(e) "Construction services provider" or "provider" means any person or entity engaged in the construction industry.

(f) "Corporate officer" or "officer of a corporation" means any person who fills an office provided for in the corporate charter or articles of incorporation of a corporation that in the case of a domestic corporation is formed under the laws of this state pursuant to T.C.A. Title 48, Chapters 11 – 68 or in the case of a foreign corporation is authorized to transact business in this state pursuant to T.C.A. Title 48, Chapters 11 – 68; provided that a domestic or foreign corporation is active and in good standing as reflected in the records of the secretary of state.

(g) "Direct labor" means the performance of any activity that would be assigned to the Contracting Group as those classifications are designated by the rate service organization designated by the commissioner of commerce and insurance as provided in T.C.A. §56-5-320, but does not include:

1. Classification code 5604, or any subsequent classification code, for construction executives, supervisors, or foremen that are responsible only for the oversight of laborers.

2. Classification code 5606, or any subsequent classification code, for project managers, construction executives, construction managers and construction superintendents having only administrative or managerial responsibilities for construction projects by exercising operational control indirectly through job supervisors or foremen.

~~(h) "Engaged in the construction industry" any person or entity assigned to the Contracting Group as those classifications are designated by the rate service organization designated by the commissioner of commerce and insurance as provided in T.C.A. §56-5-320.~~

(h) "Engaged in the construction industry" means any person or entity assigned to the contracting group as those classifications are designated by the rate service organization designated by the Commissioner of Commerce and Insurance as provided in § 56-5-320; provided, where more than one (1) classification applies, the governing classification, as that term is defined by the rate service organization designated by the Commissioner of Commerce and Insurance as provided by § 56-5-320, shall be used to determine whether the person or entity is engaged in the construction industry.

(i) "Family owned business" means a business entity in which members of the same family of the applicant have an aggregate of at least ninety-five percent ownership of such business.

(j) "General contractor" means the person or entity responsible to the owner or developer for the supervision or performance of substantially all of the work, labor, and the furnishing of materials in furtherance of the construction, erection, remodeling, repair, improvement, alteration or demolition of a building, structure or other undertaking and who contracts directly with the owner or developer of the building, structure or other undertaking; "general contractor" includes a prime contractor.

(k) "Good standing with the Tennessee department of revenue" means the secretary of state has received and verified through electronic confirmation or a certificate of tax clearance issued by the commissioner of revenue that a corporation, limited liability company, limited liability partnership, or limited partnership is current on all fees, taxes, and penalties to the satisfaction of the commissioner.

(l) "Member of a limited liability company" means any member of a limited liability company formed pursuant to T.C.A. Title 48, Chapters 201 – 249 that is active and in good standing as reflected in the records of the secretary of state.

(m) "Members of the same family of the applicant" means parents, children, siblings, grandparents, grandchildren, stepparents, stepchildren, stepsiblings, or spouses of such, and includes adoptive relationships.

(n) "Partner" means any person who is a member of an association that is formed by two (2) or more persons to carry on as co-owners of a business or other undertaking for profit and such association is active and in good standing as reflected in the records of the secretary of state.

(o) "Person" means only a natural person and does not include a business entity.

(p) "Registry" means the construction services provider workers' compensation exemption registry established pursuant to this part and maintained by the secretary of state.

(q) "Sole proprietor" means one (1) person who owns a form of business in which that person owns all the assets of such business.

Authority: T.C.A. §50-6-901(8) and Tenn. Pub. Acts, ch. 422 (2011).

Rule 1360-09-01-.05 Fees is amended by adding subdivisions (i) and (j) so that, as amended, the additional subdivisions shall read as follows:

Rule 1360-09-01-.05 Fees.

(1) The following fees apply to documents issued or filed in writing or online:

(a) The fee for the issuance of a construction services provider registration to providers who have not been issued a license by the board is one hundred dollars ($100).

(b) The fee for the issuance of a construction services provider workers' compensation exemption is one hundred dollars ($100).

(c) The fee for the filing of correction information pursuant to T.C.A. §50-6-905(c) is twenty dollars ($20).

(d) The fee for the filing of change of address information pursuant to T.C.A. §50-6-905(d) is twenty dollars ($20).

(e) The fee for the filing of a construction services provider workers' compensation exemption renewal is one hundred dollars ($100).

(f) The fee for the filing of a construction services provider registration renewal to providers who have not been issued a license by the board is one hundred dollars ($100).

(g) The fee for the filing of a revocation pursuant to T.C.A. §50-6-908(a) is twenty dollars ($20).

(h) The fee for the issuance of a copy of the notice issued pursuant to T.C.A. §50-6-905(a)(1) is twenty dollars ($20).

(i) The fee for the issuance of a second or subsequent construction services provider workers' compensation exemption registration is twenty dollars ($20) per registration.

(j) The fee for the filing of a second or subsequent construction services provider workers' compensation exemption renewal is twenty dollars ($20) per renewal.

(2) In addition to the fees authorized in subsection (1), the secretary of state is authorized to charge an online transaction fee to cover costs associated with processing payments for applications submitted online.

(3) To facilitate credit card payment and fee collection the Secretary of State may establish a merchant ID or may cause one to be established in the Department of Labor and Workforce Development specifically for the Employee Misclassification Education and Enforcement Fund. If the merchant ID is established in the Department of Labor and Workforce Development all transaction and other fees associated with credit card payments will be paid directly from the Employee Misclassification Education and Enforcement Fund.

Authority: T.C.A. §50-6-912 and Tenn. Pub. Acts, ch. 422 (2011).

* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Dept of State (board/commission/ other authority) on 11/18/11 (mm/dd/yyyy), 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: 09/29/11

Rulemaking Hearing(s) Conducted on: (add more dates). 11/18/11

Date: 11/18/11

Signature: Tre Hargett

Name of Officer: TRE HARGETT

Title of Officer: SECRETARY OF STATE

MONA LEE HART STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY, TENN.
My Commission Expires NOV. 7, 2012

Subscribed and sworn to before me on: November 18, 2011

Notary Public Signature: Mona Lee Hart

My commission expires on: Nov. 7, 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.

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

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.

There were no comments, written or oral, filed at the rulemaking hearing for the above-referenced rules held at the Department of State on November 18, 2011.

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 extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The rules do not overlap, duplicate, or conflict with other federal, state, and local government rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule.

The rules are amended to mirror language that is contained in the statute based on passage of Public Chapter 422 of the Public Acts of 2011. Therefore, the rules are clear, concise, and are not ambiguous.

(3) The establishment of flexible compliance and reporting requirements for small businesses.

The rules language that is contained in the statute based on passage of Public Chapter 422 of the Public Acts of 2011 which allows a business owner the option to exempt him/herself from having to carry workers' compensation insurance.

(4) The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses.

The rules mirror the statute and allow a business owner to choose whether or not to opt out of carrying workers' compensation insurance on him/herself.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

Compliance is simplified because it provides a single process for individual business owners involved in the construction industry to exempt themselves from carrying workers' compensation insurance on themselves.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The rules do not impact performance, design, or operational standards for small businesses.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The rules do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs. The rules mirror the statutory language and allow a business owner the option to exempt him/herself from having to carry workers' compensation insurance.

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)

If adopted, these rules will not have any impact on the expenditures or revenues of local government.

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;

The rule is being promulgated because effective October 2, 2011, additional construction services provider workers' compensation exemption registrations are authorized by Tenn. Pub. Act, ch. 422 (2011).

(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;

Tenn. Pub. Acts, ch. 422 (2011) codified in T.C.A. §50-6-901 et seq. which authorizes the Secretary of State to "make necessary provisions for the implementation" of Tenn. Pub. Acts, ch. 422 (2011).

(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;

The persons, organizations, corporations or governmental entities listed below should urge adoption of this rule: Department of Commerce & Insurance, Board for Licensing Contractors, Department of Finance & Administration, Department of Labor and Workforce Development, Department of Revenue, Department of State, Associated Builders and Contractors of Middle Tennessee, Home Builders Association of Tennessee, Insurors of Tennessee, Miller & Martin PLLC, National Federation of Independent Business in Tennessee, Tennessee Attorney General's Office, and the Tennessee General Assembly.

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Jim Brown - Jim.Brown@nfib.org

Tennessee Attorney General's Office
Josh Baker - Josh.Baker@ag.tn.gov

Tennessee General Assembly
Senator Bill Ketron - sen.bill.ketron@capitol.tn.gov
Representative Charles Curtiss - rep.charles.curtiss@capitol.tn.gov

(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 and reporter opinions or 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;

Increase State Revenue – $3,000/Recurring/Employee Misclassification Education and Enforcement Fund

Decrease State Revenue – $200/Recurring/TOSHA
$1,800/Recurring/General Fund

Increase State Expenditures – $8,000/One-Time/Employee Misclassification Education and Enforcement Fund

Assumptions:
• According to the Secretary of State, there will be approximately 10 additional applicants each year who do not have a contractor's license who will pay an application fee of $200 and 10 additional applicants each year who have a contractor's license who will pay an application fee of $100. The recurring increase in revenue to the Employee Misclassification Education and Enforcement Fund (EMEEF) from application fees will be $3,000 [(10 applicants x $200) + (10 applicants x $100)].
• A decrease in the number of persons obtaining workers' compensation insurance will decrease the total amount of premiums paid and as a result will decrease the amount of premium taxes collected.
• According to the Department of Commerce and Insurance, the average annual premium tax and surcharge collection is $100 per person. Total collections will decrease by $2,000 ($100 tax collection x 20 applications).
• The workers' compensation premium tax rate is 4.4% (4.0 percent plus a 0.4 percent surcharge). Premium tax revenue from the four percent portion (or 90.9 percent of total premium tax revenue) is allocated to the General Fund. Revenue from the 0.4 percent surcharge (or 9.1 percent of total premium tax revenue) is earmarked to administer the

provisions of the Tennessee Occupational Safety and Health Act (TOSHA) in accordance with Tenn. Code Ann. § 56-4-206.
• The total decrease in revenue earmarked for TOSHA will be $182 ($2,000 x 9.1%).
• The total decrease in revenue for the General Fund will be $1,818 ($2,000 x 90.9%).
• A one-time state expenditure from the EMEEF of $8,000 for systems development costs to pay the outside contractor to modify the BEAR Workers' Compensation Exemption Registry.
• Printing and postage costs for processing and mailing correspondence to the additional applicants will be not significant.

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

Nathan Burton, Director of Business Services, Department of State, nathan.burton@tn.gov, 615-741-2819

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

Nathan Burton, Director of Business Services, Department of State, nathan.burton@tn.gov, 615-741-2819

(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

Nathan Burton, Director of Business Services, Department of State, 312 Rosa L. Parks, Ave., Snodgrass Tower, 6th Floor, Nashville, TN, 37243. 615-741-2819, nathan.burton@tn.gov

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

Not applicable