

Tennessee Real Estate License Laws and Rules



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**RULES
OF
TENNESSEE REAL ESTATE COMMISSION**

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Nashville, Tennessee 37243-1151

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1260-01	Licensing
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ADMINISTRATIVE HISTORY

Original Chapters 1260-01 through 1260-02 were certified on June 7, 1974, under Chapter 491 of the Public Acts of 1974 as rules in effect when Chapter 491 became effective. The Administrative History following each Rule gives the date on which the rule was certified or the date on which the rule was filed and its effective date if promulgated after March 11, 1974. The Administrative History after each rule also shows the dates of any amendments or repeals.

Amendments to rules 1260-02-.03, 1260-02-.06, 1260-02-.15 and 1260-02-.17 filed November 3, 1977; effective December 5, 1977.

Rules 1260-02-.23 through 1260-02-.26 filed November 3, 1977; effective December 5, 1977.

Amendment to rules 1260-02-.06, 1260-02-.07, 1260-02-.08, 1260-02-.14, 1260-02-.16 and 1260-02-.20 filed September 13, 1978; effective October 30, 1978.

Rules 1260-02-.27 through 1260-02-.30 filed September 13, 1978; effective October 30, 1978.

Rule 1260-02-.31 filed November 14, 1978; effective December 29, 1978.

Original chapter 1260-03 filed November 14, 1978; effective December 29, 1978.

Original chapter 1260-04 filed November 22, 1978; effective January 8, 1979.

Repeal of rules 1260-01-.01 through 1260-01-.09 and 1260-02-.01 through 1260-02-.31 filed March 3, 1980; effective April 27, 1980.

Original chapters 1260-01, 1260-02 and 1260-05 filed March 3, 1980; effective April 27, 1980.

Amendment to rule 1260-05-.04 filed May 30, 1980; effective August 27, 1980.

Amendments to rules 1260-01-.02 and 1260-02-.10 filed September 30, 1980; effective December 15, 1980.

Original rules 1260-05-.01 through 1260-05-.10 filed September 30, 1980; effective December 15, 1980.

Amendments to rules 1260-01-.02, 1260-01-.04, 1260-01-.05, 1260-01-.06, 1260-02-.02, 1260-02-.03, 1260-02-.09, 1260-02-.12 and 1260-05-.05 filed January 21, 1983; effective February 22, 1983.

Amendments to rules 1260-01-.04, 1260-01-.05, 1260-02-.01, 1260-02-.03, 1260-02-.05, 1260-05-.02 through 1260-05-.06, 1260-05-.09 and 1260-05-.10 filed May 11, 1984; effective June 10, 1984.

Original rules 1260-05-.11 through 1260-05-.13 filed May 11, 1984; effective June 10, 1984

Rule 1260-01-.07 filed August 27, 1984; effective September 26, 1984

Original chapter 1260-06 filed April 17, 1985; effective May 17, 1985.

Repeal of rule and new rule 1260-01-.01 filed April 17, 1985; effective May 17, 1985. Amendments to rules 1260-01-.04, 1260-02-.01, 1260-02-.09, 1260-02-.12 and 1260-05-.03 filed April 17, 1985; effective May 17, 1985.

Repeal of rule 1260-01-.03 by Public Chapter 440; effective July 1, 1985.

New rule 1260-02-.32 filed June 4, 1985; effective July 4, 1985.

Amendment to rule 1260-06-.04 filed September 6, 1985; effective October 6, 1985.

Original rule 1260-01-.11 filed April 30, 1987; effective June 14, 1987.

Amendment to rule 1260-02-.03 filed April 30, 1987; effective July 29, 1987.

New rule 1260-02-.33, repeal of rules 1260-02-.06 and 1260-02-.13 and amendments to rules 1260-01-.01 and 1260-02-.08 filed September 16, 1987; effective October 31, 1987.

New rule 1260-05-.14 and amendments to rules 1260-05-.02, 1260-05-.03, 1260-05-.05, 1260-05-.11, and 1260-05-.12 filed November 17, 1987; effective January 1, 1988.

Amendments to rules 1260-01-.01, 1260-02-.01, 1260-05-.03 and new rule 1260-02-.34 filed November 21, 1988; effective January 5, 1989.

Original rules 1260-01-.12 and 1260-05-.15 filed July 14, 1989; effective August 28, 1989.

Original rule 1260-01-.13 filed August 16, 1989, effective September 30, 1989.

Original rule 1260-01-.14 and amendment to rules 1260-02-.02, 1260-02-.08, 1260-02-.32 and 1260-05-.03 filed September 13, 1989; effective October 28, 1989.

Original rules 1260-01-.15 and 1260-02-.35 and amendment to rule 1260-02-.32 filed October 15, 1990; effective November 29, 1990.

Amendments to rules 1260-01-.01, 1260-01-.02, 1260-01-.04, 1260-01-.05, 1260-01-.10, 1260-01-.12, 1260-02-.01 through 1260-02-.03 and 1260-02-.12, filed June 17, 1991; effective August 11, 1991.

Amendments to rules 1260-02-.35 and 1260-05-.03 filed November 4, 1991; effective December 20, 1991.

Amendment to rule 1260-05-.07 and original rule 1260-05-.16 filed February 3, 1992; effective March 19, 1992.

Amendment to rules 1260-01-.05, 1260-02-.12, 1260-02-.34, 1260-02-.35, 1260-05-.03, 1260-05-.04, 1260-05-.16, original rule 1260-01-.17 and repeal of 1260-01-.13 filed March 24, 1994; effective June 7, 1994.

Amendment to rules 1260-01-.02, 1260-01-.04, 1260-01-.06, 1260-01-.10, 1260-01-.12, 1260-01-.15, 1260-02-.03, 1260-02-.10, 1260-02-.11, 1260-02-.12, 1260-02-.32, 1260-02-.33, 1260-02-.35, 1260-05-.03, and 1260-05-.14 filed October 1, 1998; effective December 15, 1998.

Amendment to rules 1260-01-.05, 1260-01-.12, and 1260-06-.12 filed December 8, 1999; effective February 21, 2000.

Amendment to rules 1260-01-.01, 1260-02-.01, 1260-02-.03, 1260-02-.08, 1260-02-.12, 1260-02-.36, and 1260-05-.12 filed July 31, 2006; effective October 14, 2006.

Original rule 1260-02-.37; repeal and new rules 1260-05-.11, and 1260-05-.16; and amendments to rules 1260-01-.01, 1260-01-.12, 1260-01-.15, 1260-02-.33, 1260-05-.01, 1260-05-.03, and 1260-05-.07 filed December 3, 2007; effective February 16, 2008.

Amendments to rules 1260-02-.02, .09 and .12, and rules 1260-05-.12, .15 and .16, and rules 1260-06-.04 and .11 and repeal of rule 1260-05-.17 filed March 16, 2010; effective June 14, 2010.

New rule 1260-02-.38, and amendments to rules 1260-01-.12 and 1260-02-.32 filed December 3, 2012; effective March 3, 2013.

Original chapter 1260-07 filed March 4, 2013; effective June 2, 2013.

New rules 1260-01-.16 and 1260-01-.17 filed February 7, 2014; effective May 8, 2014.

Amendment to rule 1260-01-01 filed May 6, 2015; effective August 4, 2015.

Amendments to rules 1260-02-.02, .09, .12, .39, .40, and .41 ; and new rule 1260-02-.18, .19, .20, and .21 filed July 20, 2015; effective October 18, 2015.

Emergency rule 1260-01-.21 filed September 12, 2016; effective through March 11, 2017.

Amendments to rules 1260-01-.14, 1260-02-.02, and 1260-06-.10 filed October 18, 2016; effective January 16, 2017.

Amendments to rule 1260-01-.21 filed October 18, 2016; effective January 16, 2017.

Amendments to rule 1260-02-.01 filed January 24, 2017; effective April 24, 2017.

Amendments to rule 1260-01-.01 filed March 10, 2017; effective June 8, 2017.

Amendments to rule 1260-02-.12 filed March 24, 2017; effective June 22, 2017.

**RULES
OF
THE TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-01
LICENSING**

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1260-01-.01 APPLICATIONS FOR EXAMINATIONS.

- (1) Affiliate Brokers. Applicants for the affiliated brokers examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing information required, and deadlines for submission of examination applications.
- (2) Brokers. Applications for the brokers examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing, information required, and deadlines for submission of examination applications.
- (3) An applicant who passes an examination is not necessarily qualified for licensure.
- (4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.
- (5) Notwithstanding the provisions of paragraph (4) of this rule, if a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied the issuance of a license based solely on the person's past record of criminal activity but shall instead be required to appear before the Commission for the purpose of the Commission considering on a case-by-case basis whether to grant or deny the issuance of the license.
- (6) If within the past ten (10) years, an applicant has been convicted of or pled nolo contendere or guilty to any felony or a misdemeanor involving the theft of services, money or property, or had disciplinary sanctions imposed on them by any local, state or federal occupational licensing body, the applicant shall:
 - (a) Complete and submit a form prescribed by the Commission containing information relevant to the conviction, plea or disciplinary sanction.

(Rule 1260-01-.01, continued)

- (b) Submit certified copies of the court disposition or other document acceptable to the Commission for each conviction, plea of guilty or nolo contendere or a copy of the order or other document which shows the disciplinary action taken by the local, state or federal agency and the factual and legal basis for the action, whichever is applicable.
 - 1. If the background check produced pursuant to T.C.A. § 62-13-303(l) does not reveal the disposition of any arrest or charge related to a felony or a misdemeanor involving theft of services, money or property and the charge has been dismissed, nolle prosequi or otherwise disposed of without conviction or a plea of guilty or nolo contendere, the applicant shall submit certified copies of the court disposition or other document acceptable to the Commission for each such arrest or charge.
 - 2. If the court has no record of the arrest, charge, or conviction due to age of the record or any other reason, the applicant shall submit a letter from the court clerk stating the absence of the record(s).
- (c) Appear before the Commission for the purpose of determining if the conviction, plea or disciplinary sanction constitutes grounds for denial of a license and, if so, whether or not the applicant may move forward with the licensing process. The applicant shall ensure the presence of his or her principal broker (or intended principal broker) in accordance with Tenn. Comp. R. & Regs. 1260-01-.19.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, and 40-29-207.
Administrative History: Original rule certified June 7, 1974. Repeal and refiled March 3, 1980; effective April 27, 1980. Repeal and new rule filed April 17, 1985; effective May 17, 1985. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed December 3, 2007; effective February 16, 2008. Amendment filed May 6, 2015; effective August 4, 2015. Amendments filed March 10, 2017; effective June 8, 2017.

1260-01-.02 EXAMINATIONS.

- (1) All examinations are scheduled in advance by the testing vendor which actually administers them. All applicants for examination must comply with the procedures published by the testing vendor approved by the Tennessee Real Estate Commission.
- (2) (a) The minimum passing requirement for licensees shall be determined by the testing vendor and based on a study which will determine the difficulty of each examination question for an entry level licensee and conducted in accordance with the procedures approved by the Tennessee Real Estate Commission.
- (b) An applicant may be excused from the “uniform principles of real estate” portion of the examination if he:
 - 1. holds a license in another state and has successfully completed an examination approved by the Tennessee Real Estate Commission; and
 - 2. has attained on the “uniform principles” portion of such examination at least the minimum passing score requirement.
- (3) Any applicant detected cheating during an examination shall forfeit his right to grading of the examination and may be subject to further action by the Commission.
- (4) In case of failure to pass the examination:

(Rule 1260-01-.02, continued)

- (a) the unsuccessful applicant will be given a written analysis of his test results; and
- (b) the unsuccessful applicant must follow reexamination procedures published by the testing service.

Authority: T.C.A. §§ 62-13-203 and 62-13-304. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.03 REPEALED.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Repeal by Public Chapter 440; effective July 1, 1985.

1260-01-.04 LICENSES.

- (1) No principal broker shall permit a broker, affiliate broker or time-share salesperson under his supervision to engage in the real estate business unless the broker, affiliate broker or time-share salesperson has been issued a valid license and is covered by an errors and omissions insurance policy.
- (2) Each licensee is individually responsible for satisfying all legal requirements for retention of his license, including, but not limited to, paying appropriate fees; and completing real estate education.
- (3) Each licensee in a firm must obtain any desired change of affiliation or status through the firm's principal broker.
- (4) All Tennessee licensees holding nonresident licenses issued in other states shall file copies of such licenses in the Office of the Tennessee Real Estate Commission and with their principal broker.
- (5) A time-share salesperson shall only participate in time-share transactions when he is affiliated with a firm which is affiliated with a registered time-share project.

Authority: T.C.A. §§ 62-13-203 and 62-13-102(5). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.05 REPEALED.

Authority: T.C.A. §§ 62-13-203 and 62-13-208. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed December 8, 1999; effective February 21, 2000.

1260-01-.06 REPEALED.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refilled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.07 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.08 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.09 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed March 3, 1980; effective April 27, 1980.

1260-01-.10 REPEALED.

Authority: T.C.A. §§ 62-13-203 and 62-13-208; §6(c), Chapter 810, Public Acts of 1984. **Administrative History:** New rule filed August 27, 1984; effective September 26, 1984. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998.

1260-01-.11 USE OF EDUCATION AND RECOVERY ACCOUNT EARNINGS.

- (1) The Commission may utilize earnings of the real estate education and recovery account (established by T.C.A. § 62-13-208) to cover expenses incurred in:
 - (a) The performance of functions authorized by T.C.A. §§ 62-13-107 and 62-13-108; and
 - (b) The preparation and dissemination of information for the benefit of licensees, including whatever training of Commission members and staff is reasonably necessary to enable them to advise licensees on pertinent subjects. (Such training may entail procurement of publications and materials; attendance at seminars and conferences; et cetera.)
- (2) Without limiting the generality of paragraph (1) of this rule, the Commission may utilize education and recovery account earnings to:
 - (a) Hold or assist in holding seminars concerning regulatory matters and business practices affecting licenses;
 - (b) Monitor and evaluate approved post-licensing courses in real estate in order to ensure that they are structured and conducted to provide maximum benefit to licensees; and
 - (c) Publish and distribute a newsletter containing information of interest to licensees.
- (3) This rule shall not be construed to:
 - (a) Authorize any expenditure or commitment of funds hereunder which would reduce the balance in the education and recovery account to an amount less than five hundred thousand dollars (\$500,000.00); or

(Rule 1260-01-.11 continued)

- (b) Preclude the expenditure or commitment of funds specifically appropriated by the General Assembly for any purpose.

Authority: T.C.A. §§ 62-13-103 and 62-13-208. **Administrative History:** Original rule filed April 30, 1987; effective June 14, 1987.

1260-01-.12 FEES. The following fees shall apply:

- (1) For each examination, a fee to be paid to the testing vendor as set by state contract;
- (2) For the issuance of an original license, a fee to be paid to the Commission of one hundred dollars (\$100.00);
- (3) For each renewal of a license, a fee to be paid to the Commission of eighty dollars (\$80.00);
- (4) A fee to be paid to the Commission for the following:
 - (a) Change of firm address, fifty dollars (\$50.00);
 - (b) Change of Principal Broker, twenty-five dollars (\$25.00);
 - (c) Transfer of affiliation or transfer in or out of retirement status, twenty-five dollars (\$25.00);
 - (d) Commission manual, ten dollars (\$10.00);
 - (e) Certified copies, one dollar (\$1.00) per page;
 - (f) Copies, twenty-five cents (\$.25) per page;
 - (g) Printouts of licensee information, charges will be based upon the cost of producing said printout;
 - (h) Certification of licensure, twenty-five dollars (\$25.00);
 - (i) Printouts of licensee continuing education, ten dollars (\$10.00);
 - (j) Change of name, ten dollars (\$10.00);
 - (k) Duplicate license, ten dollars (\$10.00);
 - (l) Bad Checks must be made good within five (5) days after the licensee is notified. Any bad check not made good within sixty (60) days of the notification will be subject to a one hundred dollar (\$100.00) fee for collection.
- (5) A penalty fee of fifty dollars (\$50.00) per month, or portion thereof, for failing to timely renew a license if the licensee reinstates the license within the sixty (60) day time frame set forth in T.C.A. § 62-13-319(a); provided however, the Commission shall have the discretion to waive or lower said fee for good cause shown.
- (6) When any individual applies for an original license as a broker, affiliate broker or time-share salesperson, the applicant shall pay, in addition to the original license fee, a fee in the amount of ten dollars (\$10.00) for deposit into the real estate education and recovery account.

Authority: T.C.A. §§ 62-13-203, 62-13-307, 62-13-208(c)(1), 62-13-308, and 62-13-319. **Administrative History:** Original rule filed July 14, 1989; effective August 28, 1989. Amendment filed June 17, 1991;

(Rule 1260-01-.12, continued)

effective August 11, 1991. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 8, 1999; effective February 21, 2000. Amendment filed December 3, 2007; effective February 16, 2008. Amendment filed December 3, 2012; effective March 3, 2013.

1260-01-.13 REPEALED.

Authority: T.C.A. § 62-13-304(a). **Administrative History:** Original rule filed August 16, 1989; effective September 30, 1989. Repeal filed March 24, 1994; effective June 7, 1994.

1260-01-.14 FILING OF DOCUMENTS.

- (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. **Administrative History:** Original rule filed September 13, 1989; effective October 28, 1989. Amendments filed October 18, 2016; effective January 16, 2017.

1260-01-.15 ERRORS AND OMISSIONS INSURANCE COVERAGE.

It shall be a requirement for an active licensee to carry errors and omissions insurance to cover all activities contemplated under the Tennessee Real Estate Broker License Act unless the Commission is unable to obtain coverage pursuant to T.C.A. § 62-13-112(g) which would void the requirement of coverage under the applicable contract period.

- (1) A licensee who places his license in an inactive or retired status is not required to carry errors and omissions insurance until such time as his license is activated.
- (2) New licensees, licensees who activate their license from an inactive or retired status, and licensees who reinstate their license from an expired status at a time other than the beginning of the licensing period shall pay a prorated premium in accordance with a schedule provided by the insurance provider.
- (3) The Commission shall perform random audits to assure that licensees have met the requirements of this rule.

(Rule 1260-01-.15, continued)

- (4) Any independently obtained errors and omissions insurance policy shall, at a minimum, be issued upon the same terms and conditions as the policy obtained by the Tennessee Real Estate Commission pursuant to T.C.A. § 62-13-112, including, but not limited to, the limits of coverage, the permissible deductible, the permissible exemptions and the term of the policy.

Authority: T.C.A. §§ 62-13-203 and 62-13-212. **Administrative History:** Original rule filed October 15, 1990; effective November 29, 1990. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 3, 2007; effective February 16, 2008.

1260-01-.16 LAPSED ERRORS AND OMISSIONS INSURANCE.

(1) Licensees Who Fail to Maintain Errors & Omissions (E&O) Insurance

- (a) Penalty fees for Reinstatement of a Suspended License: Any licensee whose license is suspended for more than thirty (30) days pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance must provide proof of insurance that complies with the required terms and conditions of coverage to the Commission and must pay the following applicable penalty fee in order to reinstate the license:
1. For a license suspended due to a lapse in E&O coverage for more than thirty (30) days but within one hundred twenty (120) days:
 - (i) Two Hundred Dollars (\$200.00) if the licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
 - (ii) Four Hundred Dollars (\$400.00) if the licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.
 2. For a license suspended due to a lapse in E&O coverage for more than one hundred twenty (120) days but less than six (6) months, a Five Hundred Dollar (\$500.00) penalty fee;
 3. For a license suspended due to a lapse in E&O coverage for six (6) months up to one (1) year, a Five Hundred Dollar (\$500.00) penalty fee plus a penalty fee of One Hundred Dollars (\$100.00) per month, or portion thereof, for months six (6) through twelve (12).
- (b) Conditions for Reissuance of a Revoked License: Upon revocation of a license pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, any individual seeking reissuance of such license shall:
1. Reapply for licensure, including payment of all fees for such application;
 2. Pay the penalty fees outlined in subparagraph (a) above;
 3. Pass all required examinations for licensure, unless the Commission waives such examinations; and
 4. Meet any current education requirements for licensure, unless the Commission waives such education requirements.

(2) Principal Brokers of Licensees Who Fail to Maintain E&O Insurance:

(Rule 1260-01-.16, continued)

- (a) A principal broker shall ensure, at all times, that all licensees affiliated with that principal broker shall hold E&O insurance as required by law. A failure to do so shall constitute failing to exercise adequate supervision over the activities of a licensed affiliated broker.
- (b) For any principal broker who has an affiliated licensee whose license is suspended pursuant to T.C.A. § 62-13-112 for failure to maintain E&O insurance, there shall be no penalty to the principal broker if either of the following two (2) circumstances occur within thirty (30) days of that affiliated licensee's license suspension:
 1. The affiliated licensee has provided proof of insurance which complies with the required terms and conditions of coverage to the Commission; or
 2. The principal broker releases that affiliated licensee whose license is suspended for failure to maintain E&O insurance.
- (c) After the aforementioned thirty (30) day period, if the affiliated licensee has neither provided the required proof of insurance nor been released by the principal broker, the Commission authorizes a formal hearing on the matter of the principal broker's failure to exercise adequate supervision over an affiliated licensee who failed to maintain E&O insurance but also authorizes that a consent order shall be sent to the principal broker, offering that principal broker the opportunity to settle the matter informally, thereby making formal hearing proceedings unnecessary, according to the following schedule:
 1. Notwithstanding the provisions of Tenn. Comp. R. & Regs. 1260-02-.32, if the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than thirty (30) days after suspension but within one hundred twenty (120) days after suspension, the consent order shall contain the following civil penalties:
 - (i) Two Hundred Dollars (\$200.00) if the affiliated licensee's insurance carrier back-dated the licensee's E&O insurance policy to indicate continuous coverage; or
 - (ii) Four Hundred Dollars (\$400.00) if the affiliated licensee's insurance carrier did not back-date the licensee's E&O insurance policy to indicate continuous coverage.
 2. If the principal broker's affiliated licensee reinstates his or her license, or the principal broker releases the affiliated licensee, more than one hundred twenty (120) days after suspension, the consent order referenced in this subparagraph (c) above shall contain a civil penalty of one thousand dollars (\$1,000.00).
 3. Where a principal broker does not accept any authorized consent order for failure to supervise an affiliated licensee's E&O insurance, the hearing shall be held before an administrative law judge sitting alone, pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5.
 4. Nothing in this rule shall be construed as limiting the Commission's authority to:
 - (i) Authorize a consent order in a different amount than listed herein;
 - (ii) Seek any other legal discipline – including revocation or suspension of a license – for a failure to supervise an affiliated licensee's E&O insurance;
 - (iii) Review an initial order under the Uniform Administrative Procedures Act; or

(Rule 1260-01-.16, continued)

- (iv) Not seek discipline against a principal broker for failure to supervise an affiliated broker's maintenance of E&O insurance if the Commission determines that such discipline is not appropriate under the facts of that matter.

Authority: T.C.A. §§ 62-13-203, 62-13-112, and 62-13-312. **Administrative History:** Original rule filed February 7, 2014; effective May 8, 2014.

1260-01-.17 FINGERPRINTING.

- (1) Any initial applicant who is required to submit a complete and legible set of fingerprints for the purpose of obtaining a criminal background check pursuant to T.C.A. § 62-13-303 shall submit said fingerprints in an electronic format.
 - (a) An initial applicant shall be deemed to have supplied the required set 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 Commission.
 - (b) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
 - (c) The applicant 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 processing of fingerprints to the respective agent authorized by the TBI and FBI.
 - (d) Applicants shall in all cases be responsible for paying application fees for licensure as established by the Commission.
 - (e) In addition to new applicants for a broker, affiliate broker, time-share salesperson, or acquisition agent license, the following are considered "initial applicants" for purposes of this rule and, therefore, are required to submit fingerprints in an electronic format for the purpose of obtaining a criminal background check:
 - 1. Any former licensee who must reapply in order to obtain reissuance of his or her license; and
 - 2. Any person who previously held an affiliate broker license but no longer holds said license at the time such person applies for a broker license. This does not include any person who has an affiliate broker license which is inactive or retired at the time of application for a broker license.
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints which are unclassifiable in nature, the Commission may refuse to issue the requested license.
 - (a) For the purposes of this rule, "unclassifiable prints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person.
 - (b) Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Authority: T.C.A. §§ 62-13-203 and 62-13-303. **Administrative History:** Original rule filed February 7, 2014; effective May 8, 2014.

1260-01-.18 DUPLICATE OR CONFUSINGLY SIMILAR FIRM NAMES.

- (1) In order to protect the public from confusion regarding licensed real estate firms, the Tennessee Real Estate Commission reserves the right to refuse to issue a new firm license in a name that is the same or confusingly similar to another firm already issued.
- (2) The Commission staff shall review all applications for a firm name to determine whether the name is the same or confusingly similar to the name of another firm licensed with the Commission. If a name is rejected, the applicant will be notified. If the applicant does not agree with the decision, he or she may appeal to the Executive Director. Upon notification of an appeal, the Executive Director will either approve or reject the name and notify the applicant.
- (3) The applicant may then appeal, in writing, the Executive Director's decision to the Commission. The Commission's decision will be final.
- (4) The Commission expects that the applicant has researched any legal restriction regarding the use of a proposed firm name. The Commission will not attempt to determine ownership, trademark, copyright, or the validity of any other legal means to protect a name.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-01-.19 APPEARANCES BEFORE THE COMMISSION FOR THE PURPOSE OF OBTAINING A LICENSE.

Any applicant for licensure appearing before the Commission for the purpose of obtaining a license must also ensure the presence of his or her principal broker (or intended principal broker). No such appearance for the purpose of obtaining a license will be heard by the Commission without the presence of that principal broker.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-01-.20 MILITARY APPLICANTS.

- (1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
 - (a) Be issued a license upon application and payment of all fees required for the issuance of a regular license of the same type if, in the opinion of the Commission, the requirements for licensure of such other state are substantially equivalent to that required in Tennessee; or
 - (b) Be issued a temporary permit as described herein if the Commission determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including – but not limited to – education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. In that case, the Commission may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient by the Commission for the applicant to complete such requirements.
 1. After completing those additional requirements and providing the Commission with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the date of the original issuance of the

(Rule 1260-01-.20, continued)

- temporary permit and an expiration date as if the full license had been issued at that time.
2. A temporary permit shall be issued for a period that is less than the length of a renewal cycle for a full license.
 3. A temporary permit shall expire upon the date set by the Commission and shall not be subject to renewal except through the timely completion of the requirements for substantial equivalency as required by the Commission or by an extension of time granted for good cause by the Commission.
 4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Commission for all other renewals of a full license of the same type.
- (2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the Commission under the Division of Regulatory Boards if such military education, training or experience is determined by the Commission to be substantially equivalent to the education, training, or experience required for the issuance of such license.
- (3) Renewal:
- (a) Any licensee who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible to be renewed upon the licensee being released from active duty without:
 1. Payment of late fees or other penalties;
 2. Obtaining continuing education credits when:
 - (i) Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the Commission; or
 - (ii) The person performs the licensed occupation as part of such person's military duties and provides documentation sufficient to demonstrate such to the Commission.
 3. Performing any other similar act typically required for the renewal of a license.
 - (b) The license shall be eligible for renewal pursuant to this paragraph for six (6) months from the person's release from active duty.
 - (c) Any person renewing under this paragraph shall provide the Commission such supporting documentation evidencing activation as may be required by the Commission prior to renewal of any license pursuant to this paragraph.

Authority: T.C.A. §§ 4-3-1304 and 62-13-203. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-01-.21 REINSTATEMENT OF AN EXPIRED LICENSE OF A BROKER, AFFILIATE BROKER, TIME-SHARE SALESPERSON, OR ACQUISITION AGENT.

- (1) Expired License Due to Health Issues or Medical Problems:
 - (a) If a licensee fails to renew a license within sixty (60) days after expiration of the license because of personal or family health issues, and, as a result, wishes to request a medical waiver from the Commission, that licensee must:
 1. Provide a signed doctor's statement attesting to the nature and length of the illness; and
 2. Submit a statement explaining the lapse, which must be signed by the person seeking reinstatement.
 - (b) If the Commission grants the medical waiver request, then renewal fees must be paid and all other conditions for licensure must be met, but late penalty fees will not be assessed.
 - (c) Information submitted will become public record unless otherwise prohibited by law.
- (2) Expired License due to Failure to Comply with Prerequisite to Licensure:
 - (a) **Renewal of License Within Sixty (60) Days of Expiration:** If a licensee fails to comply with any prerequisite or condition to licensure or renewal and/or fails to pay a renewal fee before the expiration of the license but provides proof of compliance with all prerequisites or conditions for licensure, including payment of renewal fee, within sixty (60) days after the expiration date of the license, that licensee shall only be required to pay a penalty fee of fifty dollars (\$50.00) per thirty (30) day period, or portion thereof, from the time the license expired without the requirement of any further obligations.
 - (b) **Reinstatement After Sixty (60) Days of Expiration:** If a licensee fails to timely pay a renewal fee or comply with any prerequisite or condition to licensure or renewal and/or fails to pay a renewal fee within sixty (60) days after the expiration date of the license, that licensee must sign a Reinstatement Order agreeing to comply with the following requirements and complete each of the following requirements in order to obtain license reinstatement:
 1. Provide proof of compliance with all prerequisites or conditions for licensure, including payment of renewal fee; and
 2. Payment of Penalties in Accordance with the Following Schedule:
 - (i) For a license expired more than sixty (60) days, but within one hundred twenty (120) days, pay a penalty fee of fifty dollars (\$50.00) per thirty (30) day period, or portion thereof, from the time the license expired; or
 - (ii) For a license expired for more than one hundred twenty (120) days but within one (1) year, pay, in addition to the penalty fee described in subpart (i), a penalty fee of one hundred dollars (\$100.00) per thirty (30) day period, or portion thereof, beginning on the one hundred twenty first (121st) day; and
 3. Penalty fees will begin accruing on the first (1st) day following the license expiration date and will be assessed every thirty (30) days, or portion thereof, at the above rates. Penalty fees accrue until a Reinstatement Order is signed, proof

(Rule 1260-01-.21, continued)

of compliance with all prerequisites or conditions for licensure is received, and the renewal fee and all prescribed penalty fees are paid.

4. A reinstated license will be issued back to the original expiry date upon satisfaction of all requirements.
- (3) License Expired for More than One (1) Year: if a license is expired for more than one (1) year, then that individual must reapply for licensure, meet current education requirements, and pass all required examinations.

Authority: T.C.A. §§ 62-13-203 and 62-13-319. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015. Emergency rule filed September 12, 2016; effective through March 11, 2017. Amendments filed October 18, 2016; effective January 16, 2017.

**RULES
OF
THE TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-02
RULES OF CONDUCT**

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1260-02-.01 SUPERVISION OF AFFILIATE BROKERS.

- (1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.
- (2) A licensee may be engaged only by a principal broker who is:
 - (a) Engaged primarily in the real estate business; and
 - (b) Accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15). **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed July 31, 2006; effective October 14, 2006. Amendments filed January 24, 2017; effective April 24, 2017.

1260-02-.02 TERMINATION OF AFFILIATION.

- (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.

(Rule 1260-02-.02, continued)

- (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. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015. Amendments filed October 18, 2016; effective January 16, 2017.

1260-02-.03 OFFICES.

- (1) Signs. Each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission.
- (2) Zoning. An application for a license or change of location shall be accompanied by a written certification (from the proper governmental authority) of compliance with zoning

(Rule 1260-02-.03, continued)

laws and ordinances.

(3) Branch Offices.

(a) For purposes of T.C.A. § 62-13-309(d), a licensee is deemed to maintain a "branch" if the licensee:

1. Advertises the office in any manner for the purpose of attracting the public;
2. Has a mail drop at the office which is registered with and served by the United States Postal Service; or
3. Invites or solicits telephone calls to the office (by such means as advertising or listing in a telephone directory).

(b) Model Homes and Modular Units. A model home may be utilized in a subdivision or on a commercial lot and a modular unit may be utilized in subdivisions which are under construction for purposes of soliciting business and will not be required to be licensed as a branch office as long as the model home or modular unit meets the following requirements:

1. The model home or modular unit location and/or telephone number is only advertised in conjunction with advertising the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
2. The model home or modular unit does not have a mail drop;
3. The model home or modular unit is not the sole sales office for the firm;
4. The model home or modular unit is not utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T.C.A. § 62-13-101, et seq.; and
5. The principal broker of the main firm office shall adequately supervise licensees operating from model homes or modular units as required by T.C.A. § 62-13-312 and any rules promulgated thereunder.

Authority: T.C.A. §§ 62-13-203, 62-13-309 and 62-13-312. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 30, 1987; effective July 29, 1987. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed October 1, 1988; effective December 15, 1998. Amendment filed July 31, 2006; effective October 14, 2006.

1260-02-.04 TELEPHONE ANSWERING SERVICES. No broker shall post his license at a telephone answering service, nor shall any broker conduct the major part of his real estate by or through a telephone answering service; however, reasonable use of a telephone answering service by a broker is permitted.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-02-.05 POST OFFICE BOXES. Use of a post office box as a business location is prohibited. However, a post office box may be included in a business address for the purpose of receiving mail.

(Rule 1260-02-.05, continued)

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-02-.06 REPEALED.

Authority: T.C.A. § 63-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987. Amendment filed November 21, 1988; effective January 5, 1989.

1260-02-.07 “NET PRICE” LISTING. No broker or affiliate broker shall accept or enter a listing based on a “net price” (i.e., a price excluding the customary commission and expenses associated with the sale).

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980.

1260-02-.08 OFFERS TO PURCHASE. A broker or affiliate broker promptly shall tender every written offer to purchase or sell obtained on a property until a contract is signed by all parties. Upon obtaining a proper acceptance of an offer to purchase, or any counteroffer, a broker or affiliate broker promptly shall deliver true executed copies of same, signed by the seller, to both the purchaser and the seller. Brokers and affiliate brokers shall make certain that all of the terms and conditions of the real estate transaction are included in the contract to purchase. In the event an offer is rejected, the broker or affiliate broker shall request the seller to note the rejection on the offer and return the same to the offeror or the offeror’s agent.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 16, 1987; effective October 31, 1987. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed July 31, 2006; effective October 14, 2006.

1260-02-.09 MANAGING ESCROW OR TRUSTEE ACCOUNTS.

- (1) Definitions: for purposes of this rule, the following definitions are applicable:
 - (a) “Commingling” is defined as the act of a licensee maintaining funds belonging to others in the same bank account that contains his or her personal or business funds.
 - (b) “Trust money” is defined as either of the following:
 1. Money belonging to others received by a licensee who is acting as an agent or facilitator in a real estate transaction; or
 2. Any money held by a licensee who acts as the temporary custodian of funds belonging to others.
- (2) Each principal broker shall maintain a separate escrow or trustee account for the purpose of holding any trust money which may be received in his fiduciary capacity.
- (3) An affiliated broker shall pay over to the principal broker with whom he is affiliated all trust money immediately upon receipt.

(Rule 1260-02-.09, continued)

- (4) Principal brokers are responsible at all times for trust money accepted by them or their affiliated brokers, in accordance with the terms of the contract.
- (5) Where a contract authorizes a principal broker to place trust money in an escrow or trustee account, the principal broker shall clearly specify in the contract:
 - (a) The terms and conditions for disbursement of the trust money; and
 - (b) The name and address of the person or firm who will actually hold the trust money.
- (6) Where a contract authorizes an individual or entity other than the principal broker to hold trust money, the principal broker will be relieved of responsibility for the trust money upon receipt of the trust money by the specified escrow agent.
- (7) A principal broker may properly disburse trust money:
 - (a) Upon a reasonable interpretation of the contract which authorizes him to hold the trust money;
 - (b) Upon securing a written agreement which is signed by all parties having an interest in such and is separate from the contract which authorizes him to hold the trust money;
 - (c) At the closing of the transaction;
 - (d) Upon the rejection of an offer to purchase, sell, rent, lease, exchange or option real estate;
 - (e) Upon the withdrawal of an offer not yet accepted to purchase, sell, rent, lease, exchange or option real estate;
 - (f) Upon filing an interpleader action in a court of competent jurisdiction; or
 - (g) Upon the order of a court of competent jurisdiction.
- (8) Trust money shall be disbursed in a proper manner without unreasonable delay.
- (9) Absent a demonstration of a compelling reason, earnest money shall be disbursed, interpleaded, or turned over to an attorney with instructions to interplead the funds within twenty-one (21) calendar days from the date of receipt of a written request for disbursement.
- (10) No postdated check shall be accepted for payment of trust money unless otherwise provided in the offer.
- (11) Trust money shall be deposited into an escrow or trustee account promptly upon acceptance of the offer unless the offer contains a statement such as "Trust money to be deposited by:".
- (12) In addition to the escrow or trustee account referenced in paragraph (2), all trust money received and held which relates to the lease of property must be held in one (1) or more separate escrow or trustee accounts.
- (13) Commingling of funds contained within firm accounts is expressly prohibited.
- (14) Interest-bearing escrow or trustee accounts are neither required nor prohibited by the Commission. If utilized, however, the following provisions shall be observed:

(Rule 1260-02-.09, continued)

- (a) At the time of contract execution, the licensee shall disclose to the payor that his or her deposit will be placed in an interest-bearing escrow or trustee account, and the licensee and the payor shall execute a written agreement indicating the manner of disposition of any interest earned;
- (b) As a depositor of the trust money, the licensee does not own the trust money or interest earned thereon until properly disbursed to the licensee; and
- (c) The licensee shall keep a detailed and accurate accounting of the precise sum of the interest earned for each separate deposit.

Authority: T.C.A. §§ 62-13-203 and 62-13-321. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015.

1260-02-10 CLOSING STATEMENTS. If a broker acts as closing agent he shall provide copies of the closing documents to each customer or client.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-11 PERSONAL INTEREST.

- (1) No broker or affiliate broker shall, either directly or indirectly through a third party, purchase for himself or attempt to purchase or acquire any interest in or option to purchase property listed with him or with his company, or property regarding which he or his company has been approached by the owner to act as broker, without first making a full disclosure of his true position to the owner of the property or to any prospective purchaser for which he has acted for as a client or customer. After acquiring any such personal interest, either directly or indirectly, the broker or affiliate broker shall make a full disclosure of his true position to prospective purchasers who tender offers to buy the property.
- (2) All licensees shall identify themselves as a licensee when buying or selling property for themselves.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-12 ADVERTISING.

- (1) All advertising, regardless of its nature and the medium in which it appears, which promotes either a licensee or the sale or lease of real property, shall conform to the requirements of this rule. The term "advertising," for purposes of this rule, in addition to traditional print, radio, and television advertising, also includes, but is not limited to, sources of communication available to the public such as signs, flyers, letterheads, e-mail signatures, websites, social media communications, and video or audio recordings transmitted through internet or broadcast streaming. Advertising does not include promotional materials that advertise a licensee such as hats, pens, notepads, t-shirts, name tags, business cards, and the sponsorship of charitable and community events.
- (2) For purposes of this rule, the term "firm name" shall mean either of the following:

(Rule 1260-02-.12, continued)

- (a) The entire name of the real estate firm as licensed with the Commission; or
 - (b) The d/b/a name, if applicable, of the real estate firm as licensed with the Commission.
- (3) General Principles
- (a) No licensee shall advertise to sell, purchase, exchange, rent, or lease property in a manner indicating that the licensee is not engaged in the real estate business.
 - (b) All advertising shall be under the direct supervision of the principal broker and shall list the firm name and the firm telephone number as listed on file with the Commission. The firm name must appear in letters the same size or larger than those spelling out the name of a licensee or the name of any team, group or similar entity:
 - (c) Any advertising which refers to an individual licensee must list that individual licensee's name as licensed with the Commission.
 - (d) No licensee shall post a sign in any location advertising property for sale, purchase, exchange, rent or lease, without written authorization from the owner of the advertised property or the owner's agent.
 - (e) No licensee shall advertise property listed by another licensee without written authorization from the property owner. Written authorization must be evidenced by a statement on the listing agreement or any other written statement signed by the owner.
 - (f) No licensee shall advertise in a false, misleading, or deceptive manner. False, misleading, and/or deceptive advertising includes, but is not limited to, the following:
 - 1. Any licensee advertising that includes only the franchise name without including the firm name;
 - 2. Licensees who hold themselves out as a team, group, or similar entity within a firm who advertise themselves utilizing terms such as "Real Estate," "Real Estate Brokerage," "Realty," "Company," "Corporation," "LLC," "Corp.," "Inc.," "Associates," or other similar terms that would lead the public to believe that those licensees are offering real estate brokerage services independent of the firm and principal broker; or
 - 3. Any webpage that contains a link to an unlicensed entity's website where said entity is engaged or appears to be engaged in activities which require licensure by the Commission.
- (4) Advertising for Franchise or Cooperative Advertising Groups
- (a) Any licensee using a franchise trade name or advertising as a member of a cooperative group shall clearly and unmistakably indicate in the advertisement his name, firm name and firm telephone number (all as registered with the Tennessee Real Estate Commission) adjacent to any specific properties advertised for sale or lease in any media.
 - (b) Any licensee using a franchise trade name on business cards, contracts, or other documents relating to real estate transactions shall clearly and unmistakably indicate his name, firm name, and firm telephone number (all as registered with the Commission).

(Rule 1260-02-.12, continued)

- (5) Internet Advertising: In addition to all other advertising guidelines within this rule, the following requirements shall also apply with respect to internet advertising by licensees:
- (a) The firm name and the firm telephone number listed on file with the Commission must conspicuously appear on each page of the website.
 - (b) Each page of a website which displays listings from an outside database of available properties must include a statement that some or all of the listings may not belong to the firm whose website is being visited.
 - (c) Listing information must be kept current and accurate. This requirement shall apply to "First Generation" advertising as it is placed by the licensee and does not refer to such advertising that may be syndicated or aggregated advertising of the original by third parties outside of the licensee's control and ability to monitor.
- (6) Social Media Advertising
- (a) For the purpose of this rule, "social media" means internet-based applications or platforms that allow the public to create and share content and information. Examples include, but are not limited to: Facebook, Twitter, Instagram and LinkedIn.
 - (b) With regards to social media advertising by licensees, the firm name and firm telephone number listed on file with the Commission must be no more than one click away from the viewable page.
 - (c) Listing information must be kept current and accurate. This requirement shall apply to "First Generation" advertising as it is placed by the licensee and does not refer to such advertising that may be syndicated or aggregated advertising of the original by third parties outside of the licensee's control and ability to monitor.
- (7) Guarantees, Claims and Offers
- (a) Unsubstantiated selling claims and misleading statements or inferences are strictly prohibited.
 - (b) Any offer, guaranty, warranty or the like, made to induce an individual to enter into an agency relationship or contract, must be made in writing and must disclose all pertinent details on the face of such offer or advertisement.

Authority: T.C.A. §§ 62-13-203, 62-13-301, 62-13-310(b), and 62-13-312 **Administrative History:** Original rule certified June 7, 1974. Repealed and refiled March 3, 1980; effective April 27, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed June 17, 1991; effective August 11, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed March 16, 2010; effective June 14, 2010. Amendment filed July 20, 2015; effective October 18, 2015. Amendments filed March 24, 2017; effective June 22, 2017.

1260-02-.13 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 3, 1980; effective April 27, 1980. Repeal filed September 16, 1987; effective October 31, 1987.

1260-02-.14 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.15 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.16 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.17 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Rule Amendment filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.18 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.19 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.20 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Amendment filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.21 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.22 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule certified June 7, 1974. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.23 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.24 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.25 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.26 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed November 3, 1977; effective December 5, 1977. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.27 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original Rule filed September 13, 1978; effective October 30, 1978. Repealed: filed March 3, 1980; effective April 27, 1980.

1260-02-.28 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.29 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.30 REPEALED.

Authority: T.C.A. § 62-1311. **Administrative History:** Original rule filed September 13, 1978; effective October 30, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.31 REPEALED.

Authority: T.C.A. § 62-1309. **Administrative History:** Original rule filed November 14, 1978; effective December 29, 1978. Repeal filed March 3, 1980; effective April 27, 1980.

1260-02-.32 CIVIL PENALTIES.

- (1) The Commission may, in a lawful proceeding against any person required to be licensed by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

Violation	Penalty
T.C.A. § 62-13-103(b)	\$ 50 ---- 1000
T.C.A. § 62-13-301	50 ---- 1000
T.C.A. § 62-13-312(b)	
(1)	250 ---- 1000
(2)	200 ---- 1000
(3)	300 ---- 1000
(4)	100 ---- 1000
(5)	300 ---- 1000

(Rule 1260-02-.32, continued)

	(6)	200 ---- 1000
	(7)	300 ---- 1000
	(8)	100 ---- 1000
	(9)	200 ---- 1000
	(10)	300 ---- 1000
	(11)	250 ---- 1000
	(12)	300 ---- 1000
	(13)	300 ---- 1000
	(14)	50 ---- 1000
	(15)	250 ---- 1000
	(16)	250 ---- 1000
	(17)	200 ---- 1000
	(18)	250 ---- 1000
	(19)	250 ---- 1000
	(20)	200 ---- 1000
	(21)	100 ---- 1000
T.C.A. § 62-25-103(a)		50 ---- 1000
T.C.A. § 62-25-107(b)		
	(1)	250 ---- 1000
	(2)	250 ---- 1000
	(3)	300 ---- 1000
	(4)	50 ---- 1000
T.C.A. § 66-32-121(f)		
	(1)	250 ---- 1000
	(2)	100 ---- 1000
	(3)	200 ---- 1000
	(4)	300 ---- 1000
	(5)	250 ---- 1000
	(6)	250 ---- 1000
	(7)	400 ---- 1000
	(8)	350 ---- 1000
	(9)	400 ---- 1000
	(10)	250 ---- 1000
Any Commission Rule or Order		50 ---- 1000

(2) With respect to any person required to be licensed by the Commission as a real estate broker who is not licensed, the Commission may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-13-102	\$1000
T.C.A. § 62-13-103	\$1000
T.C.A. § 62-13-105	\$1000
T.C.A. § 62-13-109	\$1000
T.C.A. § 62-13-110	\$1000
T.C.A. § 62-13-301	\$1000
T.C.A. § 62-13-312	\$1000

(3) Each day of a continued violation may constitute a separate violation.

(4) In determining the amount of a civil penalty, the Commission may consider such factors as the following:

- (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
- (b) The circumstances leading to the violation;

(Rule 1260-02-.32, continued)

- (c) The severity of the violation and the risk of harm to the public;
- (d) The economic benefits gained by the violator as a result of non-compliance; and
- (e) The interest of the public.

Authority: T.C.A. §§ 56-1-308 and 62-13-203. **Administrative History:** New rule filed June 4, 1985; effective July 4, 1985. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed October 15, 1990; effective November 29, 1990. Amendment filed October 1, 1998; effective December 15, 1998. Repeal and new rule filed December 3, 2012; effective March 3, 2013.

1260-02-.33 GIFTS AND PRIZES.

- (1) A licensee may offer a gift, prize, or other valuable consideration as an inducement to the purchase, listing, or lease of real estate only if the offer is made:
 - (a) Under the sponsorship and with the approval of the firm with whom the licensee is affiliated; and
 - (b) In writing, signed by the licensee, with disclosure of all pertinent details, including but not limited to:
 - 1. Accurate specifications of the gift, prize, or other valuable consideration offered;
 - 2. Fair market value;
 - 3. The time and place of delivery; and
 - 4. Any requirements which must be satisfied by the prospective purchaser or lessor.

Authority: T.C.A. §§ 62-13-203 and 62-13-203(b). **Administrative History:** New rule filed September 16, 1987; effective October 31, 1987. Amendment filed October 1, 1998; effective December 15, 1998. Amendment filed December 3, 2007; effective February 16, 2008.

1260-02-.34 INTERPLEADER FORM.

Actions in the nature of interpleader, in which the value of money which is the subject of the action does not exceed the jurisdictional limit of General Sessions Court, may be filed in General Sessions Court pursuant to T.C.A. § 16-15-731. The following form may be used, as appropriate, alone, or in conjunction with forms currently used by the General Sessions Court in which the action is to be filed.

(Rule 1260-02-.34, continued)

IN THE GENERAL SESSIONS COURT OF
_____ COUNTY, TENNESSEE

Plaintiff

General Sessions No. _____

v.

Defendant

Defendant

PETITION TO INTERPLEAD FUNDS

STATE OF TENNESSEE
COUNTY OF _____

_____, being duly sworn, deposes and says:

I

_____, the defendant, resides at _____, in the above-named county, and the mailing address of the defendant is _____.

II

_____, the defendant, resides at _____, in the above-named county and the mailing address of the defendant is _____.

III

The Plaintiff has custody or possession of money in the amount of \$_____, held pursuant to the following:

IV

Plaintiff has no interest in this money. The defendants claim or may claim be entitled to such money; the defendant's claims to the money are adverse.

V

The plaintiff deposits herewith into the court \$_____ which equals the amount of such money to be invested in accordance with the order of the court and will abide with the judgment of the court as to the final disposition thereof, and therefore, requests to be dismissed from this action.

Subscribed to and sworn before me this _____ day of _____, 19____.

NOTARY PUBLIC

My commission expires _____

ORDER

To each of the within named defendants:

(Rule 1260-02-.34, continued)

You are hereby directed to appear and answer the foregoing claim and to have with you all books, papers, and witnesses needed by you to establish your claim to such money. This matter shall be heard on the ____ day of _____, 19____, at ____ o'clock ____ m.

Be advised that failure to appear may result in a judgment adverse to your interests which would determine or foreclose your claim to the above-described money as well as the disposition thereof, and for the costs of this action.

Enter this the ____ day of _____, 19____.

Authority: T.C.A. §§ 62-13-203 and 16-15-731. **Administrative History:** New rule filed November 21, 1988; effective January 5, 1989. Amendment filed March 24, 1994; effective June 7, 1994.

1260-02-.35 REPEALED.

Authority: T.C.A. § 62-13-203. **Administrative History:** Original rule filed October 15, 1990; effective November 29, 1990. Amendment filed November 4, 1991; effective December 20, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998.

1260-02-.36 EXCLUSIVE BUYER REPRESENTATION AGREEMENTS.

An exclusive buyer representation agreement is an agreement in which a licensee is engaged to represent a buyer in the purchase of a property to the exclusion of all other licensees. When entering into any such agreement a licensee must advise and confirm in writing to such buyer the following:

- (1) That the buyer should make all arrangements to view or inspect a property through the licensee and should not directly contact other licensees;
- (2) That the buyer should immediately inform any other licensee the buyer may come into contact with (for example, at an open house) that he or she is represented by the licensee; and
- (3) Whether the buyer will owe a commission in the event the buyer purchases a property without the assistance of the licensee through another licensee or directly from an owner.

Authority: T.C.A. §§ 62-13-203, 62-13-401, 62-13-402, 62-13-404 and 62-13-405. **Administrative History:** New rule filed July 31, 2006; effective October 14, 2006.

1260-02-.37 SEPTIC SYSTEM INSPECTION LETTERS. A licensee preparing an offer to buy shall provide in the offer and make the buyer aware that, for a fee, a septic system inspection letter is available through the Tennessee Department of Environment and Conservation, Division of Ground Water Protection.

Authority: T.C.A. §§ 62-13-203 and 62-13-403. **Administrative History:** Original rule filed December 3, 2007; effective February 16, 2008.

1260-02-.38 DEATH OR EXTENDED ABSENCE OF PRINCIPAL BROKER.

- (1) The Commission must be notified within ten (10) days of the death, resignation, termination, or incapacity of a principal broker. In the event of an unexplained extended absence of a principal broker, the Commission must be notified within a reasonable time period. At the time of notification, a plan must be submitted which addresses the continuation of operations without a principal broker.

(Rule 1260-02-.38, continued)

- (2) The Commission may, in its discretion, based on the merits and circumstances of each case, permit a real estate firm to continue operating without a principal broker for a period of time not to exceed thirty (30) days from the date of death, resignation, termination, or incapacity of a principal broker, subject to conditions imposed by the Commission.
- (3) If, within the aforementioned thirty (30) day period, a real estate firm contacts the Commission demonstrating compliance with their initial approved plan and circumstances which require additional time to continue operating without a principal broker, the executive director shall have the authority to grant a thirty (30) day extension to the period originally allowed by the Commission. In the event that a thirty (30) day extension is granted, a new principal broker must be in place no later than the sixty-first (61st) day from the date of death, resignation, termination, or incapacity of a principal broker.

Authority: T.C.A. §§ 62-13-203 and 62-13-309. **Administrative History:** Original rule filed December 3, 2012; effective March 3, 2013.

1260-02-.39 COMMISSIONS EARNED BY AFFILIATED LICENSEES.

- (1) The commissions earned by an affiliated licensee while working under a principal broker can still be paid after one (1) or more of the following circumstances occur:
 - (a) The affiliated licensee transfers to a new broker;
 - (b) The affiliated licensee retires his or her license;
 - (c) The affiliated licensee is in broker release status;
 - (d) The affiliated licensee allows his or her license to expire; or
 - (e) The death of the affiliated licensee.

Authority: T.C.A. §§ 62-13-203 and 62-13-309. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-02-.40 ELECTRONIC RECORDS.

- (1) Pursuant to T.C.A. § 62-13-312(b)(6), real estate licensees must preserve records relating to any real estate transaction for three (3) years following the consummation of said real estate transaction. Real estate licensees may utilize electronic recordkeeping methods to comply with this requirement, provided that the following conditions are met:
 - (a) All documents required to be retained must be readily accessible in an organized format providing ease in document identification within twenty-four (24) hours of any request for inspection by representatives of the Commission.
 - (b) In order to ensure proper document retention, the principal broker of all real estate firms that use electronic recordkeeping methods must develop and utilize a retention schedule that safeguards the security, authenticity, and accuracy of the records for the entire required retention period and that also provides for the use of technology and hardware that ensures the accessibility of records in a readable format.

Authority: T.C.A. §§ 62-13-203 and 62-13-312. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

1260-02-.41 LICENSEES WHO HOLD THEMSELVES OUT AS A TEAM, GROUP, OR SIMILAR ENTITY WITHIN A FIRM.

- (1) Licensees who hold themselves out as a team, group, or similar entity within a firm must be affiliated with the same licensed firm and shall not establish a physical location for said team, group, or similar entity within a firm that is separate from the physical location of record of the firm with which they are affiliated.
- (2) No licensees who hold themselves out as a team, group, or similar entity within a firm shall receive compensation from anyone other than their principal broker for the performance of any acts specified in T.C.A. Title 62, Chapter 13.
- (3) The principal broker shall not delegate his or her supervisory responsibilities to any licensees who hold themselves out as a team, group, or similar entity within a firm, as the principal broker remains ultimately responsible for oversight of all licensees within the principal broker's firm.
- (4) No licensees who hold themselves out as a team, group, or similar entity within a firm shall represent themselves as a separate entity from the licensed firm.
- (5) No licensees who hold themselves out as a team, group, or similar entity within a firm shall designate members as designated firm agents, as this remains a responsibility of the licensed firm's principal broker.

Authority: T.C.A. §§ 62-13-203 and 62-13-312. **Administrative History:** Original rule filed July 20, 2015; effective October 18, 2015.

**RULES
OF
TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-3
RENTAL LOCATION AGENTS**

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1260-3-.01 RENTAL LOCATION AGENCY LICENSE. Each individual or firm (partnership, corporation, or association) other than licensed real estate brokers or real estate salesmen employed by licensed real estate brokers is hereby required to obtain a special license to operate in the State of Tennessee as a Rental Location Agency and furnish proof to the Commission of honesty, integrity, and business organization by supplying information on a special application designed for this purpose before beginning operations as a "Rental Location Agent." The Tennessee Real estate Commission may require the applicant to personally appear before the Commission for an oral examination or interview.

Authority: T.C.A. §62-2501. *Administrative History:* Original Rule filed November 14, 1978; effective December 29, 1978.

1260-3-.02 RENTAL LOCATION AGENT'S LICENSES. Each individual employee of a licensed rental location agency will be required to obtain a separate license and complete a similar license application before beginning employment in a rental location agency. This individual license shall be issued, renewed, or transferred on the same basis as all other licenses issued by the Tennessee Real Estate Commission. Changes of business address will be considered transfers of license and retirements will not be allowed.

Authority: T.C.A. §62-2501. *Administrative History:* Original Rule filed November 14, 1978; effective December 29, 1978.

1260-3-.03 INVESTIGATIONS AND OFFICE INSPECTIONS. Agency license applicants or individual applicants for license shall be subject to a credit, criminal, and background investigation by the authorized agents of the Tennessee Real Estate Commission before each license is approved. Office inspections will be made periodically to assure compliance with Chapter 663 of the Public Act of 1978.

Authority: T.C.A. §62-2501. *Administrative History:* Original rule filed November 14, 1978; effective December 29, 1978.

1260-3-.04 REQUIREMENT OF CONTRACT OR RECEIPT. Every Rental Location Agent shall give to each customer who pays full or partial consideration for the services of the Agent a contract or receipt conforming to the requirements of Rule 1260-3-.05.

Authority: T.C.A. §62-2501. *Administrative History:* Original Rule filed November 14, 1978; effective December 29, 1978.

1260-3-.05 TERMS OF CONTRACT OR RECEIPT.

- (1) Every contract or receipt provided pursuant to Rule 1260-3-.04 shall contain the legends set forth in paragraphs (2), (3) and (4) hereof, and shall provide blanks for insertion of the information required by paragraph (5) hereof. The legends shall be set in boldface type of at least the greater of 10 points or the largest size type in the remainder of the contract or receipt. If the contract or receipt is not

(Rule 1260-3-.05, continued)

printed, the legends shall be in all capital letters, and no other part of the contract or receipt other than the name of the Rental Location Agent shall be in all capital letters.

- (2) The contract or receipt shall include the following legend regarding the services to be provided to the customer:

NOTICE: THIS IS AN INFORMATION SERVICE ONLY. NO ATTEMPT IS MADE TO SECURE HOUSING FOR YOU. THE SERVICE OFFERS ONLY COMPILED INFORMATION CONCERNING AVAILABLE RENTAL HOUSING UNITS.

- (3) The contract or receipt shall include the following legend regarding the services to be provided to the customer, with the blank filled in with the name of the Rental Location Agent.

A representative of () must mark one of the following boxes after checking the current listings of rental property.

Rental property meeting your needs as described herein has been verified as available within the last 72 hours.

No property meeting your needs as described above can be verified as currently available.

- (4) The contract or receipt shall include the following legend, with the blanks filled in with the correct names and addresses:

You are entitled to a refund of all but \$10.00 if after a bonafide effort you fail to find a rental through our services. To qualify you must make contact either in person or by telephone with (name) at least once each day for at least 10 days, and attempt to contact each landlord whose telephone number is given to you as soon as possible. If you find a rental other than through (name) prior to the expiration of 10 days you will also receive the refund. To obtain your refund write to (name) stating the amount owed and the address to which it is to be sent. Letters should be mailed or delivered to:

(name)
(address)

Your refund will be mailed within 10 days of receipt.

- (5) The contract or receipt shall provide spaces for insertion of at least the following specifications as to property sought by the customer.
 - (a) maximum rent per month
 - (b) number of bedrooms
 - (c) number of children
 - (d) pet
 - (e) general location

For purposes of subparagraph (e), the Rental Location Agent shall show to each customer a map dividing the area served by the Rental Location Agent into numbered districts not larger than zip code areas, and which may provide special districts relating to universities or colleges or other areas of high density population of renters. The number or numbers of districts acceptable to the customer shall be set forth in the space provided for "general location."

(Rule 1260-3-.05, continued)

Authority: T.C.A. §62-2501. **Administrative History:** Original rule filed November 14, 1978; effective December 29, 1978.

1260-3-.06 STANDARDS FOR ORAL OR WRITTEN REPRESENTATIONS OF AVAILABILITY.

- (1) No rental housing shall be advertised in any medium unless its availability for rental has been verified by the Rental Location Agent on the day the request for advertising is made to the medium.
- (2) The availability for rental of all advertised property shall be verified daily so long as the advertisements shall continue to be published. Upon learning that advertised property is no longer available, the Rental Location Agent shall immediately take all possible steps to cause cancellation of the advertisement. Persons who advise the Rental Location Agent by telephone or otherwise that they are responding to an advertisement for property which the Rental Location Agent knows is no longer available for rent shall be advised immediately that such property is not available. These provisions shall not prohibit the Rental Location Agent from advising such person of the existence of any other similar listed property which has been verified as to availability as required by paragraphs (1), (2) and (3) hereof.
- (3) With respect to any property not being advertised, the Rental Location Agent shall not represent that it is available for rental unless availability shall have been verified with 72 hours of the time at which a representation of availability is made. If such verification cannot be made within such time, the property shall be removed from the listings until it has been verified as available and no representation of availability shall be made by the Rental Location Agent.
- (4) The following information shall be fully, accurately and clearly disclosed with respect to any property as to which a representation of availability is made:
 - (a) The date of availability for occupancy of the property if not currently available.
 - (b) The monthly rent.
 - (c) The existence (and the amount, if known) of any damage deposit, security deposit, clean-up fees, rent prepayment, or similar charges over and above the monthly rent.
 - (d) The number of bedrooms.
 - (e) Whether a lease is required.
 - (f) Restrictions on the property, such as no pets, except restrictions imposed by federal, state or local law.
 - (g) The types of housing, such as single family, duplex or trailer.
 - (h) The location of the rental housing by reference to the areas required to be established in accordance with Section 1260-3-.02 (5)(e) or otherwise.
 - (i) The utilities paid for, if any.
 - (j) The telephone number of the landlord.

Notwithstanding the foregoing, in the case of advertising, only the information in subparagraphs (a), (b) and (h) must be disclosed.

(Rule 1260-3-.06, continued)

- (5) No representation shall be made to any person that rental property meeting the needs of such person is contained in the Rental Location Agent's listings unless such is the fact and unless the availability of such property shall have been verified as required by paragraphs (1), (2) and (3) hereof as applicable.
- (6) For purposes of this Rule 1260-3-.06, the term "Rental Location Agent" shall include the licensed Rental Location Agent, all employees and agents of such Rental Location Agent.

Authority: T.C.A. §62-2501. **Administrative History:** *Original Rule filed November 14, 1978; effective December 29, 1978.*

**RULES
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**CHAPTER 1260-05
EDUCATIONAL REQUIREMENTS**

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1260-05-.01 PURPOSE. The Tennessee Real Estate Broker License Act of 1973 (as amended) requires satisfactory completion of certain courses in real estate by applicants for, and holders of, licenses as a broker or affiliate broker. This chapter establishes standards and procedures governing the establishment and operation of courses, programs, and schools which are designed to satisfy such educational requirements. This chapter further establishes guidelines and requirements to be fulfilled by licensees in obtaining required education.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-309. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed December 3, 2007; effective February 16, 2008.

1260-05-.02 APPLICATIONS.

- (1) The sponsor of any course(s) in real estate for which the approval of the Tennessee Real Estate Commission under T.C.A. §62-13-303 is sought shall submit an application on the form prescribed by the Commission. The application shall be accompanied by:
 - (a) a resume outlining the education and experience of the instructor(s) of such course(s);
 - (b) a detailed description of the content of such course(s);
 - (c) the projected schedule for the teaching of such course(s); and
 - (d) such other information as the Commission may reasonably request

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed November 17, 1987; effective January 1, 1988.

1260-05-.03 REQUIREMENTS FOR COURSES.

- (1) the applicant shall demonstrate to the satisfaction of the Commission that each course submitted for approval will:
 - (a) cover subjects which are reasonably related to the practice of real estate and suitably advanced to benefit and enrich the students enrolled;
 - (b) be conducted in a facility which contains adequate space, seating, and equipment;

(Rule 1260-05-.03, continued)

- (c) consist of no fewer than two (2) classroom hours; and
 - (d) incorporate appropriate methods for determining whether a student has successfully completed such course. Such methods shall include, but not be limited to:
 - 1. a minimum attendance requirement of eighty percent (80%), except that such requirement shall be one hundred percent (100%) if the course consists of eight (8) or fewer classroom hours.
 - 2. provisions to make up for all classes missed by a student; and
 - 3. a minimum passing requirement of seventy percent (70%) and a comprehensive final examination (or equivalent measure of achievement), if the course consists of more than eight (8) classroom hours. However, courses taken by affiliate brokers or brokers of eight (8) classroom hours or less may be approved for continuing education or post licensing credit without a comprehensive final examination being given.
- (2) Each hour of classroom instruction required by *T.C.A. §62-13-303* shall consist of fifty (50) minutes of actual instruction.
- (3) There shall be a sixty (60) hour course in basic principles required of all applicants for an affiliate brokers license under *T.C.A. §62-13-303*. The “basic principles of real estate” course required of applicants for affiliate broker’s licenses by *T.C.A. §62-13-303* shall include significant instruction in the following areas:
- (a) the real estate business
 - (b) the agency relationship
 - (c) contracts (listings; leases; sales)
 - (d) governmental controls on real estate, including the Tennessee Real Estate Broker License Act
 - (e) legal aspects of real estate
 - (f) real estate mathematics
 - (g) real estate valuation
 - (h) real estate finance
 - (i) listing, offer to purchase, and settlement forms
 - (j) Tennessee real estate laws, rules, practice, etc.
 - (k) fair housing
 - (l) any additional subject which the Commission may require by reasonable written notice to course sponsor and/or instructor.
- (4) The “office or brokerage management” course required of applicants for broker’s licenses by *T.C.A. §62-13-303* shall include significant instruction in the following areas:

(Rule 1260-05-.03, continued)

- (a) overview of theories, processes, and functions of management
 - (b) review of contracts and closing statements
 - (c) transition to management role
 - (d) planning; policy-making; setting objectives
 - (e) organizing and staffing
 - (f) recruiting, selecting, training, and retaining sales and office personnel
 - (g) written instruments; policy and procedures manual; contract between independent contractor and broker, and contract between salesperson-employee and broker
 - (h) financial systems and records
 - (i) processes, procedures, and methods of control
 - (j) stages of development in real estate firms
 - (k) market analysis
 - (l) horizontal and vertical expansions
 - (m) mergers and acquisitions
 - (n) governmental controls on real estate including the Tennessee Real Estate Broker License Act
 - (o) any additional subject which the Commission may require by reasonable written notice of the course sponsor and/or instructor.
- (5) (a) Effective January 1, 1993, the content of all courses approved by the Commission for continuing education shall be directly related to the following topics:
- 1. Valuation of Real Estate
 - 2. Construction-Property condition, energy
 - 3. Contracts
 - 4. Agency
 - 5. Financing Real Estate
 - 6. Investment Real Estate
 - 7. License Law and Rules
 - 8. Property Management
 - 9. Taxation of Real Estate Transaction
 - 10. Closing and Settlement Procedures

(Rule 1260-05-.03, continued)

11. Land Use, Planning and Zoning
 12. Time-shares
 13. Type of Property (condo, dom, pud, zero lot line, single, pud, etc.)
 14. Fair Housing
 15. Antitrust
 16. Ethics in Real Estate
 17. Professional Liability
- (b) The Commission may add or delete any subject by means of reasonable written notice to the course sponsor and/or instructor.
- (6) A candidate for an affiliate broker license shall be deemed to have completed the 60 hour course described in paragraph (3) above if:
- (a) the candidate holds a college or university degree with a major or concentration in real estate and the candidate's transcript shows successful completion of at least one 3 hour (30 hours or more of classroom instruction) course in the principles/fundamentals of real estate and at a minimum two more courses totaling at least 60 hours of classroom instruction in real estate as evidenced by the title or description of the course; or
 - (b) the candidate holds a law degree and the law school transcript evidences successful completion of at least one 3 hour course (30 hours or more of classroom instruction) in real property and at least 60 other hours of classroom instruction in contracts and agency.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed April 17, 1985; effective May 17, 1985. Amendment filed November 17, 1987; effective January 1, 1988. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed September 13, 1989; effective October 28, 1989. Amendment filed November 4, 1991; effective December 20, 1991. Amendment filed March 24, 1994; effective June 7, 1994. Amendment filed October 1, 1998; effective December 15, 1998. Amendments filed December 3, 2007; effective February 16, 2008.

1260-05-.04 QUALIFICATIONS FOR INSTRUCTORS.

- (1) In order to be eligible for approval by the Commission, a course in real estate designed to meet the educational requirements established in T.C.A. §62-13-303 shall be under the personal and direct supervision of an instructor who:
 - (a) effective January 1, 1995, has completed a Tennessee Real Estate Commission approved course in instructor training;
 - (b) holds a diploma or certificate evidencing a high school education or the equivalent thereof;
 - (c) has no complaints filed against him in the Office of the Commission which have not been satisfactorily resolved;

(Rule 1260-05-.04, continued)

- (d) if such course concerns the principles of real estate, mathematics, or sales techniques, is a licensed broker (or, with the approval of the Commission, affiliate broker) with at least five (5) years of experience in the subject of such course;
- (e) if such course concerns the law of real estate, has graduated from a law school accredited by the American Bar Association or approved by the State Board of Law Examiners;
- (f) if such course concerns any other field in which a degree or other recognized designation is commonly awarded, has earned such degree or designation, or has at least five (5) years of satisfactory experience in the field; and
- (g) if such course is offered for credit at a college or university, has either a master's degree and three (3) years of satisfactory experience in the area of instruction or a terminal degree in the area of instruction.

Authority: T.C.A. §§62-13-106 and 62-13-203. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed March 24, 1994; effective June 7, 1994.

1260-05-.05 TENNESSEE REALTORS' INSTITUTE. Applicants for affiliate broker's or broker's licenses who elect to obtain their real estate education through the Tennessee Realtors' Institute shall remain subject to the "basic principles of real estate" and "office or brokerage management" course requirements (respectively) of T.C.A. §62-13-303.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed September 30, 1980; effective December 15, 1980. Amendment filed January 21, 1983; effective February 22, 1983. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed November 17, 1987; effective January 1, 1988.

1260-05-.06 RELATIONSHIP WITH BROKERS.

- (1) No course in real estate which is designed to satisfy educational requirements established in T.C.A. §62-13-303 may be:
 - (a) conducted in a facility which is also utilized for conducting business of a broker or brokerage firm; or
 - (b) advertised in conjunction with any advertisement for the business of a broker or brokerage firm.
- (2) No broker or brokerage firm shall use or cause to be used any facility in which a course in real estate designed to satisfy educational requirements established in T.C.A. §62-13-303 is conducted for the purpose of discussing, inducing, or promoting affiliation with such broker or brokerage firm.

Authority: T.C.A. §§62-13-106 and 62-13-203. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-05-.07 RECORDS.

- (1) The sponsor of any course(s) approved by the Commission shall maintain accurate and permanent records on all students enrolled in such course(s). The records shall include all information and ratings considered in determining whether students successfully complete such course(s). Such records shall be made available upon request by the Commission or its authorized representative.

(Rule 1260-05-.07, continued)

- (2) It shall be the responsibility of each licensee to provide his file identification number at the time of registration for any Tennessee Real Estate Commission approved continuing education course for affiliate brokers, or post licensing course for brokers. If the licensee fails to provide his file identification number to the sponsor, he may not receive credit for the course from the Tennessee Real Estate Commission.
- (3) Each sponsor of any Commission approved continuing education course for affiliate brokers, or post licensing course for brokers, shall submit to the Commission, within ten (10) working days of the completion of the course, a roster of all students who successfully complete each course. The roster shall include the name and license/file identification number of each student. This information shall be provided in a roster format approved by the Commission.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984. Amendment filed February 3, 1992; effective March 19, 1992. Amendment filed December 3, 2007; effective February 16, 2008.

1260-05-.08 INSPECTIONS. By applying for the Commission's approval of any course in real estate, the applicant agrees to permit periodic inspections and monitoring by the Commission or its authorized representative for the purposes of evaluating facilities, course content, instructor performance, or any other relevant aspect of the administration and conduct of such course.

Authority: T.C.A. §§62-13-106 and 62-13-203. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-05-.09 CHANGES IN APPLICATIONS. Any material change in any information furnished in connection with any application for approval of a course (including, but not limited to, information concerning course content, instructors, and facilities) shall be submitted to and approved by the Commission before taking effect.

Authority: T.C.A. §§62-13-106 and 62-13-203. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-05-.10 WITHDRAWAL OF APPROVAL. Approval of any course(s) may be withdrawn by the Commission if:

- (1)
 - (a) the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law.
 - (b) the information contained in the application for approval is materially inaccurate or misleading;
 - (c) the sponsor, an instructor, or any other school representative disseminates false or misleading information concerning any course;
 - (d) the sponsor, an instructor, or any other school representative possesses, claims to possess, reveals, or distributes any questions utilized in examinations given by the Commission; or
 - (e) the performance of the instructor is so deficient as to impair significantly the value of a course; provided, however, that the instructor shall receive adequate notice of the discovered deficiency and opportunity to demonstrate satisfactory correction thereof.

Authority: T.C.A. §§62-13-106 and 62-13-203. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-05-.11 CORRESPONDENCE COURSES.

- (1) The term “distance education” shall be used interchangeably with the term “correspondence courses” and shall include all education in which instruction does not take place in a traditional classroom setting but rather through other media where the teacher and student are separated by distance and/or by time. Distance education courses approved by the Commission shall be completed within one (1) year of the date of enrollment in order for continuing education to be granted to the licensee. Distance education may include, but is not necessarily limited to the following categories of learning materials and/or transmission modes:
 - (a) Printed Material. A distance education course using printed materials may be approved by the Commission if:
 1. students will be provided a manual or other printed materials;
 2. a comprehensive course outline, requirements for successful completion of the course and information regarding availability of faculty to students are provided;
 3. it contains at least six (6) written exercises which are to be submitted periodically to the instructor, graded and returned to the student; and
 4. if the class provides more than eight (8) hours of credit, a comprehensive final examination or equivalent measure of achievement is executed prior to the sponsor submitting the roster to the Commission indicating successful completion of the course for any and all students.
 - (b) Computer Based/Disk/Online Material. A distance education course using these materials and/or formats may be submitted to the Commission for analysis and possible approval if the course is certified by the Association of Real Estate License Law Officials (ARELLO), or other certifying body at the discretion of the Commission, as to technology, support of the technology, interactivity and course design.
 1. The Commission will review these certified courses on a case by case basis to determine whether the curriculum will meet Commission education requirements.
 2. Any course which would provide more than eight (8) hours of continuing education shall include a final examination which shall be executed prior to submission to the Commission for education credit.
 3. Approval of a course under this paragraph will be automatically withdrawn should certification by the respective certifying body be discontinued for any reason.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed May 11, 1984; effective June 10, 1984. Amendment filed November 17, 1987; effective January 1, 1988. Repeal and new rule filed December 3, 2007; effective February 16, 2008.

1260-05-.12 CONTINUING EDUCATION.

- (1) The Commission may, in its discretion, designate that portion of the continuing real estate education required of licensees by T.C.A. §62-13-303 to be composed of specific topic(s).
- (2) The “office or brokerage management” course required of applicants for broker’s licenses will not be approved as a post-licensing or continuing education course for affiliate brokers.

(Rule 1260-05-.12, continued)

- (3) (a) An affiliate broker whose license was originally issued on or after July 1, 1980, will not be eligible for renewal of the license unless, during the immediately preceding two-year license period, such affiliate broker satisfactorily completes at least sixteen (16) hours of continuing real estate education. This subparagraph shall not apply to an affiliate broker whose license was temporarily retired in accordance with T.C.A. §62-13-318 for the entire immediately preceding two-year period.
 - (b) A broker whose license was originally issued on or after January 1, 2005, will not be eligible for renewal of the license unless, during the immediately preceding two-year license period, such broker satisfactorily completes at least sixteen (16) hours of continuing real estate education. This subparagraph shall not apply to a broker whose license was temporarily retired in accordance with T.C.A. §62-13-318 for the entire immediately preceding two-year license period.
 - (c) A licensee will not receive continuing education credit for classroom hours completed during a prior license period.
- (4) Continuing education credit will be given for approved classroom hours completed during the twelve (12) months immediately preceding the original date of licensure.

Authority: T.C.A. §§ 62-13-106, 62-13-203 and 62-13-303. **Administrative History:** Original rule filed May 11, 1984; effective June 10, 1984. Amendment filed November 17, 1987; effective January 1, 1988. Amendment filed November 21, 1988; effective January 5, 1989. Amendment filed July 31, 2006; effective October 14, 2006. Amendment filed March 16, 2010; effective June 14, 2010.

1260-05-.13 PROMOTIONAL MATERIALS. No materials shall be used for advertising or promoting any course designed to meet the requirements of T.C.A. §62-13-303 without advance approval by the Commission. Any statements or claims made in such materials must be factually supported.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 3, 1980; effective April 27, 1980. Amendment filed May 11, 1984; effective June 10, 1984.

1260-05-.14 REPETITION OF COURSE CONTENT.

Credit for completion of real estate education required under T.C.A. §62-13-303 will not be awarded where the content of a course duplicates or repeats that for which credit has been previously received. This rule is only limited to duplication within the same renewal period.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed November 17, 1987; effective January 1, 1988. Amendment filed October 1, 1998; effective December 15, 1998.

1260-05-.15 FEE FOR EDUCATIONAL COURSE APPLICATION.

- (1) Before any educational course is reviewed for approval by the Commission, the following non-refundable fees shall be paid according to the following hourly credit schedule:
 - (a) any course not exceeding eight (8) hours a fee of twenty-five dollars (\$25.00);
 - (b) any course from nine (9) hours to thirty (30) hours a fee of fifty dollars (\$50.00);
 - (c) any course exceeding thirty (30) hours a fee of one hundred dollars (\$100.00).
- (2) In addition to the above fees, a twenty-five dollar (\$25.00) fee shall be paid for each course instructor.

(Rule 1260-05-.15, continued)

Authority: T.C.A. §§62-13-106, 62-13-203 and 62-13-324. **Administrative History:** Original rule filed July 14, 1989; effective August 28, 1989. Amendment filed March 16, 2010; effective June 14, 2010.

1260-05-.16 COURSE APPROVAL PERIODS.

- (1) The Commission will approve courses based upon a two (2) year review cycle of all courses. Each cycle will end on December 31st of the second year. The first period of approval will end December 31, 2010.
- (2) Each course approval shall remain effective until the end of the review cycle, notwithstanding the date upon which it was approved.
- (3) All course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in non-approval of a course.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed February 3, 1992; effective March 19, 1992. Amendment filed March 24, 1994; effective June 7, 1994. Repeal and new rule filed December 3, 2007; effective February 16, 2008. Amendment filed March 16, 2010; effective June 14, 2010.

1260-05-.17 REPEALED.

Authority: T.C.A. §§62-13-106, 62-13-203, and 62-13-303. **Administrative History:** Original rule filed March 24, 1994; effective June 7, 1994. Repeal filed March 16, 2010; effective June 14, 2010.

**RULES
OF
TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-06
TIME-SHARE PROGRAMS**

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1260-06-.01 DEFINITIONS. For purposes of this Chapter, unless the context otherwise requires, the definitions of terms contained in the Tennessee Time-Share Act of 1981, as amended (T.C.A., Title 66, Chapter 32), shall be applicable.

Authority: T.C.A. §§ 66-32-121 and 66-32-102. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.02 RECEIPT OF PUBLIC OFFERING STATEMENT. Before transfer of a time-share interval and no later than the date of any sales contract, the developer shall obtain from the purchaser a signed and dated receipt for the public offering statement (and any amendments and supplements thereto) provided in accordance with T.C.A. § 66-32-112. The receipt shall specify the number of pages in the public offering statement as filed with the Commission. The developer shall retain such receipt for a period of four (4) years from the date thereof.

Authority: T.C.A. §§ 66-32-112 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.03 ESCROW FUNDS.

- (1) Where a developer is required by T.C.A. § 66-32-113 to pay funds received from a buyer towards the sales price of a time-share estate into an escrow account held in this state by an independent bonded escrow company or insured financial institution, the escrow agent shall not be:
 - (a) The developer;
 - (b) An employer or employee of the developer;
 - (c) A project broker or sales agent for any time-share property of the developer; or
 - (d) Any person who otherwise controls, is controlled by or is under common control with a developer.

- (2) Where a developer is permitted by T.C.A. § 66-32-113 (d) to withdraw payments received from the buyer toward the sales price of a time-share estate prior to substantial completion, the developer may use such payments only to pay for construction costs of the improvements comprising the time-share project. For purposes of this rule, "construction costs" means expenses reasonably incurred in connection with the building, furnishing, and landscaping of the time-share project, including architectural, engineering, finance, and legal fees.

(Rule 1260-06-.03, continued)

- (3) Each escrow agent shall maintain, in accordance with generally accepted accounting principles, separate records for each time-share project containing the following information:
 - (a) Name of the owner of the time-share estate.
 - (b) Identification of time-share interval involved.
 - (c) Amount and date of deposit.
 - (d) Amount, date, and payee of each check drawn on the trust account.
- (4) The Commission or its authorized representatives may, at all reasonable hours, examine and copy such books, accounts, documents, or records as are relevant to a determination of whether a developer or escrow agent has complied with the provisions of T.C.A. § 66-32-113 and this rule.

Authority: T.C.A. §§ 66-32-113 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.04 DISCLOSURE OF RESCISSION RIGHTS.

The following statement shall appear in boldface and conspicuous type in:

- (1) Every public offering statement; and
- (2) Every contract for the sale of a timeshare interval, immediately above the space reserved for the signature of the purchaser.

“You May Cancel a Contract to Purchase a Time-Share Interval within Ten (10) Days from the Date of the Signing of the Contract, Where You Have Made an On-Site Inspection of the Time-Share Project Before Signing the Contract, and, if You Have Not Made Such an Inspection, within Fifteen (15) days from the Date of the Signing of the Contract. If You Elect to Cancel, You May Do So by Hand Delivering Notice to the Seller at [insert address] within the Designated Period, or by Mailing Notice to the Seller (or His Agent for Service of Process) by Prepaid United States Mail at [insert address] Postmarked Anytime within the Designated Period.”

Authority: T.C.A. §§ 62-32-114, 66-32-112, 66-32-114, and 66-32-121. **Administrative History:** Original ruled filed April 17, 1985; effective May 17, 1985. Amendment filed September 6, 1985; effective October 6, 1985. Amendment filed March 16, 2010; effective June 14, 2010.

1260-06-.05 MATERIAL CHANGES.

- (1) A Developer shall not intentionally cause any material change in a time-share program as represented in the public offering statement without at least ten (10) days advance notice to the Commission. As long as a developer is engaged in the offering or disposition of time-share intervals respecting a time-share program, the developer shall notify the Commission of any material change within ten (10) days from the date on which the developer first knew of it.
- (2) For purposes of this rule, “material change” means a change in any information or document disclosed in or attached to a public offering statement which renders such information or document false or misleading. Without limiting the generality of the preceding sentence, a material change shall be deemed to occur whenever.
 - (a) The current or projected budget for the time-share intervals is revised.

(Rule 1260-06-.05, continued)

- (b) The scheduled commencement or completion of promised improvement in the time-share project is (or will be) delayed due to adverse financial conditions or other causes.
- (3) Upon the occurrence of a material change, the Commission may, if it deems:
- (a) Request that sales be voluntarily suspended by the developer pending a determination of the effect of the material change on the time-share program.
 - (b) Take action in accordance with T.C.A. § 66-32-121.

Authority: T.C.A. §§ 66-32-116 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.06 ACQUISITION AGENTS.

- (1) Each acquisition agent shall furnish on the form prescribed by the Commission the following information:
- (a) Its principal office address and telephone number
 - (b) The name of its responsible managing employee
 - (c) The names and addresses of any affiliated individuals who will act as acquisition agents in its behalf.
 - (d) The time-share program(s) for which it is seeking prospective purchasers.
 - (e) The name and address of the developer of such time-share program(s).
- (2) The acquisition agent shall promptly report to the Commissioner any change in the information submitted under this rule.

Authority: T.C.A. §§ 66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.07 SALES AGENTS.

- (1) Each sales agent shall furnish on the form prescribed by the Commission the following information:
- (a) Its principal office address and telephone number.
 - (b) The name of its responsible managing employee.
 - (c) The names and addresses of any affiliated individuals who will act as sales agents in its behalf.
 - (d) The time-share program(s) that it is selling.
 - (e) The name and address of the developer of such time-share program(s).
- (2) The sales agent shall promptly report to the Commission any change in the information submitted under this rule.

Authority: T.C.A. §§ 66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.08 MANAGING AGENTS.

- (1) Each managing agent shall furnish on the form prescribed by the Commission the following information:
 - (a) Its principal office address and telephone number.
 - (b) The name of its responsible managing employee.
 - (c) The time-share program(s) that it is managing.
 - (d) The name and address of the developer of such time-share program(s).
 - (e) The name and address of the financial institution in which the managing agent deposits funds collected from time-share interval owners for common expenses and maintenance repairs.
- (2) The managing agent shall promptly report to the Commission any change in the information submitted under this rule.

Authority: T.C.A. §§ 66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.09 EXCHANGE AGENTS. An exchange agent may disclose the information required by T.C.A. § 66-32-122 (f), in any clear and understandable format. The exchange agent's statement shall be filed with the Commission on or before July 1 of each year.

Authority: T.C.A. §§ 66-32-121 and 66-32-122. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.10 APPLICATION FOR REGISTRATION.

- (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.

(Rule 1260-06-.10, continued)

- (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. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985. Amendments filed October 18, 2016; effective January 16, 2017.

1260-06-.11 RENEWAL OF REGISTRATION.

- (1) All registration of time-share programs shall expire one (1) year from the date the registration was approved, and shall be invalid after that date unless renewed.
- (2) At least one (1) month in advance of the date of expiration of a registration, the Executive Director of the Commission shall notify the registrant by mail of the deadline and fee for renewal of the registration.
- (3) An application for renewal of registration must be filed on or before the expiration date of the registration. The application shall explain any changes in information or documents previously filed with the Commission; provided, however, that this paragraph shall not be construed to obviate rule 1260-06-.05.
- (4) If an application for renewal of registration of a time-share program is not timely filed, the developer must submit a new application in order to reinstate the registration.

Authority: T.C.A. §§ 62-13-121, 66-32-121, and 66-32-123. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985. Amendment filed March 16, 2010; effective June 14, 2010.

1260-06-.12 REGISTRATION FEES.

- (1) The following fees shall accompany applications submitted under the Time Share Act:
 - (a) For the registration of any timeshare program or vacation club, a fee of seven hundred fifty dollars (\$750.00);
 - (b) For the renewal of any time share program or vacation club, a fee of five hundred dollars (\$500.00);
 - (c) For a request for exemption from registration, a fee of two hundred fifty dollars (\$250.00);
- (2) The fees charged and collected under this rule shall not be prorated, and shall not be refundable.

Authority: T.C.A. §§ 66-32-121 and 66-32-123. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985. Amendment filed December 8, 1999; effective February 21, 2000.

1260-06-.13 REQUEST FOR EXEMPTION.

- (1) Any developer wishing to avoid registering a time-share program involving property located outside this state on the basis of T.C.A. § 66-32-102(7) (the “no-offering” provision) shall submit a request for exemption to the Commission. The request shall be accompanied by:
 - (a) The public offering statement for the project; and
 - (b) A letter of certificate of registration from the jurisdiction in which the time-share property is located.

Authority: T.C.A. §§ 66-32-102 and 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

1260-06-.14 RECORDS.

- (1) The developer shall maintain the following records for a period of at least four (4) years:
 - (a) The names, addresses, and dates of employment (and if applicable, termination) of all persons (including acquisition agents and sales agents) employed by the developer for time-share sales purposes in the State of Tennessee.
 - (b) Copies of sales contracts and documentation reflecting the disposition of all purchase money received thereunder.
 - (c) Copies of agreements entered into with managing agents for the management of the time-share program.
 - (d) Copies of agreements entered into with exchange agents for the affiliation of the time-share project with an exchange program.
- (2) All records required to be kept under this rule shall be made available to the Commission or its authorized representatives upon reasonable request.

Authority: T.C.A. § 66-32-121. **Administrative History:** Original rule filed April 17, 1985; effective May 17, 1985.

**RULES
OF
TENNESSEE REAL ESTATE COMMISSION**

**CHAPTER 1260-07
VACATION LODGING SERVICES**

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1260-07-.01 SCOPE. The rules in Chapter 1260-07 only apply to persons who perform vacation lodging services and vacation lodging service firms, as defined and governed under T.C.A. § 62-13-104(b).

Authority: T.C.A. §62-13-104. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.

1260-07-.02 DESIGNATED AGENT QUALIFICATIONS.

To obtain a designated agent license, applicants must meet the following prerequisites:

- (1) Applicants must have obtained a high school diploma or general education diploma;
- (2) Applicants must have certified proof of completion of eight (8) hours of pre-licensing education; and
- (3) Applicants shall not be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is longer in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

Authority: T.C.A. §62-13-104. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.

1260-07-.03 DESIGNATED AGENT RESPONSIBILITIES.

- (1) The designated agent shall be responsible for supervising all employees of the firm.
- (2) Designated agents shall be reasonably available to manage and supervise each vacation lodging service office during regular business hours.
- (3) The designated agent shall be responsible for maintaining the vacation lodging service escrow account.

Authority: T.C.A. §62-13-104. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.

1260-07-.04 CIVIL PENALTIES.

- (1) The Commission may, in a lawful proceeding against any person required to have a designated agent license and/or a vacation lodging services license, in addition to or in lieu of

(Rule 1260-07-.04, continued)

any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to the Commission with the following schedule:

Violation	Penalty
T.C.A. § 62-13-104(b)(3)(C)	\$ 200 ---- 1000
T.C.A. § 62-13-104(b)(3)(D)(i)	200 ---- 1000
T.C.A. § 62-13-104(b)(7)(B)	
(i)	250 ---- 1000
(ii)	250 ---- 1000
(iii)	300 ---- 1000
(iv)	100 ---- 1000
(v)	300 ---- 1000
(vi)	200 ---- 1000
(vii)	100 ---- 1000
(viii)	200 ---- 1000
(ix)	300 ---- 1000
(x)	300 ---- 1000
(xi)	50 ---- 1000
(xii)	250 ---- 1000
(xiii)	200 ---- 1000
T.C.A. § 62-13-104(b)(8)(A)(ii)	200 ---- 1000
T.C.A. § 62-13-104(b)(9) (A)	25 ---- 1000
(B)	25 ---- 1000
Any Commission Rule or Order	50 ---- 1000

- (2) Each day of a continued violation may constitute a separate violation.
- (3) In determining the amount of a civil penalty, the Commission may consider such factors as the following:
 - (a) whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of non-compliance; and
 - (e) the interest of the public.

Authority: T.C.A. §62-13-104 and 56-1-308. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.

1260-07-.05 VACATION LODGING SERVICES INSTRUCTOR QUALIFICATIONS.

- (1) To obtain certification as an instructor of vacation lodging services, applicants must meet the following prerequisites:
 - (a) Applicants must have obtained a high school diploma or general education diploma;
 - (b) Applicants must also:
 - 1. hold a license as a designated agent under the Vacation Lodging Services Act; or
 - 2. possess a minimum of three (3) years experience in vacation lodging services.

(Rule 1260-07-.05, continued)

- (i) If a course concerns any other field in which a degree, certification, or other recognized designation is commonly awarded then the instructor must have earned that degree or designation, or have at least three (3) years of relevant experience in the field.
- (2) The Commission may charge a fee of twenty-five dollars (\$25) for each instructor in an education cycle, in order to review that instructor's qualifications.

Authority: T.C.A. §62-13-104. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.

1260-07-.06 FEES. The following fees shall apply:

- (1) For the issuance of an original vacation lodging service firm or original designated agent license, a fee to be paid to the Commission of one hundred dollars (\$100.00);
- (2) For each renewal of a license, a fee to be paid to the Commission of eighty dollars (\$80.00);

Authority: T.C.A. §62-13-104. **Administrative History:** Original rule filed March 4, 2013; effective June 2, 2013.