

FS 03-38-07
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Rulemaking Hearing Rules
of
The Tennessee Department of Commerce and Insurance
Insurance Division

Chapter 0780-1-91
Public Adjusters

New Rules

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0780-1-91-.01 Purpose.

The purpose of this Chapter is to provide rules to assist the commissioner in administering the laws relating to the licensure and regulation of public adjusters, as provided for in T.C.A. §§ 56-6-901, *et seq.* This Chapter should not be viewed as replacing any other or additional statutory requirements not explicitly included in this Chapter. Nothing in this Chapter authorizes any public adjuster or person operating at the direction of a public adjuster to engage in conduct that is law practice or law business as defined in title 23, chapter 3 or under the rules of the Tennessee Supreme Court.

Authority: T.C.A. §§ 56-6-901, *et seq.*

0780-1-91-.02 Scope.

This Chapter applies to all persons acting as public adjusters in this state. This Chapter does not apply to:

- (1) An attorney at law admitted to practice in this state or an employee of such attorney acting under such attorney's supervision;
- (2) A person who negotiates or settles claims arising under a life or health insurance policy or annuity contract;
- (3) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including without limitation photographers, contractors, appraisers of value, private investigators, engineers and handwriting experts;
- (4) A licensed health care provider, employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient;
- (5) A person who settles subrogation claims between insurers; or
- (6) A person who is employed by, or under contract to, an insurance company acting under such company's employment or contract.

Authority: T.C.A. §§ 56-6-903 and 56-6-920.

0780-1-91-.03 Authority.

This Chapter is issued pursuant to the authority vested in the commissioner pursuant to T.C.A. § 56-6-920.

Authority: T.C.A. § 56-9-920.

0780-1-91-.04 Definitions.

- (1) "Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance;
- (2) "Department" means the Tennessee Department of Commerce and Insurance;
- (3) "NAIC" means the National Association of Insurance Commissioners; and
- (4) "Public adjuster" means any person, other than someone who is employed by an insurance carrier, who, for compensation or any other thing of value, on behalf of the insured:
 - (a) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured on behalf of an insured, in investigating, verifying, substantiating, estimating, appraising, determining, presenting, and discussing the value of the claim, and effectuating the resolution of a claim for loss or damage covered by an insurance contract;
 - (b) Advertises for employment as a public adjuster of insurance claims or solicits business or represents to the public to be a public adjuster of first party insurance claims, for losses or damages arising out of policies of insurance that insure real or personal property; or
 - (c) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.

Authority: T.C.A. §§ 56-6-902 and 56-6-920.

0780-1-91-.05 Initial License Requirements.

- ~~(1) A public adjuster shall apply for and receive from the commissioner a public adjuster license to operate as a public adjuster in this State. All applications for licensure shall contain the following:~~
 - (a) A completed application form adopted by the commissioner and/or the NAIC manually signed by the applicant or an officer or director of the business entity;
 - (b) Unless exempt pursuant to T.C.A. § 56-6-907, proof of the completion and passing of an examination required by Rule 0780-1-91-.06; and
 - (c) A non-refundable filing fee of one hundred dollars (\$100.00).

- (2) Unless directed otherwise by the Department, an applicant shall file the information required under this Rule with the commissioner by personal delivery or mail addressed to: Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Davy Crockett Tower, Ninth Floor, Nashville, Tennessee 37243, Attention: Agent Licensing Section.
- (3) Applicants should allow thirty (30) days for the Department's review and granting of the application upon receipt of all required information.

Authority: T.C.A. §§ 56-6-905, 56-6-906, 56-6-907, 56-6-910(c), and 56-6-920.

0780-1-91-.06 Examination Requirements.

- (1) All individuals applying for a public adjuster license, unless otherwise exempted by law, are required to pass a written examination in order to test the applicant's knowledge as to the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state.
- (2) Each examination for a license shall be approved for use by the commissioner. Examinations for licensing shall be at such reasonable times and places accessible to the applicants as are designated by the commissioner.
- (3) An individual taking an examination pursuant to this Rule shall pay a non-refundable fee of fifty dollars (\$50.00) in order to take such examination. An individual who takes an examination more than once shall pay the examination fee for each subsequent taking of the examination, regardless of the reason for the subsequent examinations.
- (4) The minimum score that will be considered as a passing score for any examination given hereunder is seventy percent (70%). Any score on an exam below seventy percent (70%) shall be considered a failing score.
 - (a) An individual who has failed to pass an examination for a license applied for may take another examination following the expiration of thirty (30) days from the date of the applicant's last unsuccessful examination upon submission of the examination fee.
 - (b) An individual who has received a failing score on three (3) successive attempts of taking an examination for a license applied for will not be permitted to take a subsequent examination until the expiration of one (1) year from the date of the taking of the individual's last unsuccessful examination. After the one (1) year period, the individual may retake the examination. The individual shall also be required to file a new application accompanied by the appropriate filing and examination fees.
- (5) ~~The commissioner may enter into a contract with a testing organization for the examination of applicants for license as a public adjuster. Notwithstanding any other provisions of this Chapter, such contract may provide that the testing organization shall:~~
 - (a) Assume responsibility for the administration and grading of the examination; and
 - (b) Charge and collect from each applicant the fee as established in Rule 0780-1-91-.06(3).
- (6) No individual taking an examination for a public adjuster license shall possess or examine the examination questions and/or answers prior to the time of examination, nor

shall any such individual use improper notes or other reference materials during the examination. Furthermore, no person shall have such questions or answers reproduced and/or disseminated for the purposes of assisting an applicant in passing an examination.

- (7) All individuals desiring to take a test under this Rule shall submit to the commissioner:
- (a) Two (2) full sets of fingerprints;
 - (b) A certified check in the amount of forty-eight dollars (\$48.00) made payable to the Tennessee Bureau of Investigation representing the cost of having criminal history record checks performed;
 - (c) A reasonable administrative fee representing the cost of the collection and transmission of fingerprint data made payable to the contractor.

Authority: T.C.A. §§ 56-6-904, 56-6-905, 56-6-906, and 56-6-920.

0780-1-91-07 Renewal Requirements.

- (1) A public adjuster shall renew its license every other year prior to the anniversary date of the initial granting of the license in order to continue to operate in this State. All applications for renewal shall contain the following:
- (a) A completed renewal form adopted by the commissioner signed by the applicant or an officer or director of the business entity in a manner acceptable to the commissioner;
 - (b) Proof of either:
 - 1. Completion of no less than twenty-four (24) hours of continuing education courses approved by the commissioner; or
 - 2. Completion of the applicant's resident state's continuing education requirements if the applicant's home state gives credit to residents of this state on a substantially similar basis; and
 - (c) A non-refundable renewal fee of one hundred dollars (\$100.00).
- (2) Unless directed otherwise by the Department, an applicant shall file the information required under this Rule with the commissioner by personal delivery or mail addressed to: Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Davy Crockett Tower, Ninth Floor, Nashville, Tennessee 37243, Attention: Agent Licensing Section.
- (3) ~~In order to ensure the prompt review and granting of a renewal application, applicants should file all information required under Paragraph (1) of this Rule thirty (30) days prior to the anniversary date of granting of the initial license.~~

Authority: T.C.A. §§ 56-6-905, 56-6-907, 56-6-909, 56-6-912, and 56-6-920.

0780-1-91-08 Procedures for Public Complaints.

- (1) Complaints concerning public adjusters shall be handled by the Consumer Insurance Services Section (or successor organizational unit) of the Department's Insurance Division.

- (2) The Consumer Insurance Services Section (or successor organizational unit) shall record and review all complaints received under this Rule, and the process for such review and disposition shall be the same as that for all other complaints submitted to the Consumer Insurance Services Section.
- (3) Upon receiving notice of a complaint from the Consumer Insurance Services Section, a public adjuster shall send a written response to the Consumer Insurance Services Section within thirty (30) days thereafter.

Authority: T.C.A. §§ 56-1-106, 56-6-909(d), 56-6-910(a), 56-6-919, 56-6-920, Title 56, Chapters 8 and 53.

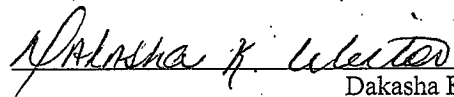
Legal Contact and/ or party who will approve final copy for publication:

Dakasha Winton, Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
Davy Crockett Tower, Twelfth Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
615-741-2199

Contact for disk acquisition:

Dakasha Winton, Staff Attorney
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Nashville, Tennessee 37243
615-741-2199

Signature of the agency or officers directly responsible for proposing and/or drafting this Chapter:



Dakasha K. Winton
Staff Attorney

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Commerce and Insurance on the 13th day, of March 2007.

Further, I certify that the provisions of Tenn. Code Ann. § 4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking hearing has been filed in the Department of State on the 30th day of November, 2006 and such notice of rulemaking hearing having been published in the December, 2006 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 17th day of January, 2007.

Leslie A. Newman

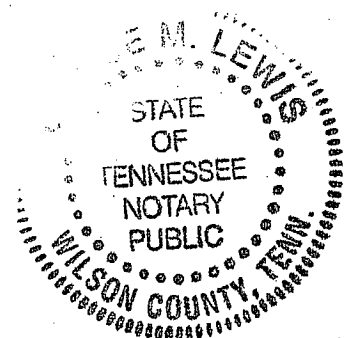
Leslie A. Newman
Commissioner
Department of Commerce and Insurance

Subscribed and sworn to before me this the 13th day of March 2007.

Glenn M. Lewis

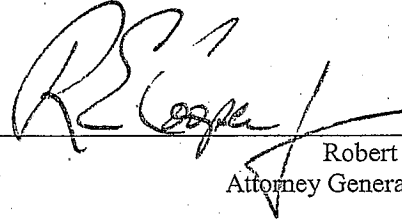
Notary Public

My commission expires on the 22nd day of March 2008



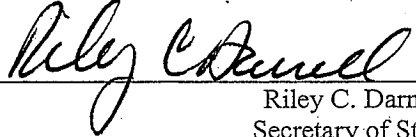
My Commission Expires MAR. 22, 2008

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




Robert E. Cooper, Jr.
Attorney General and Reporter

The rulemaking ~~hearing~~ rules set out herein were properly filed in the Department of State on the 26 day of March, 2007, and will become effective on the 9 day of June, 2007.



Riley C. Darnell
Secretary of State

By: 

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