

**Department of State
 Division of Publications**

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For Department of State Use Only

Sequence Number: 08-02-19
 Rule ID(s): 9224
 File Date: 8/5/19
 Effective Date: 11/3/19

Proposed Rule(s) Filing Form

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

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

| | |
|---------------------------------|---|
| Agency/Board/Commission: | Tennessee Department of Commerce and Insurance |
| Division: | Regulatory Boards Division |
| Contact Person: | Denard Mickens |
| Address: | 500 James Robertson Parkway, Nashville, Tennessee |
| Zip: | 37243 |
| Phone: | (615) 741-8689 |
| Email: | denard.mickens@tn.gov |

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

| Chapter Number | Chapter Title |
|----------------|-----------------------------------|
| 0780-05-11 | General Provisions |
| Rule Number | Rule Title |
| 0780-05-11-.02 | Fee Waiver for Low Income Persons |
| | |
| | |

**2018 Proposed Rules
Tennessee Department of Commerce & Insurance**

**Chapter 0780-05-11
General Provisions
New Rule**

0780-05-11-.01 Assessment of Investigatory and Hearing Costs
0780-05-11-.02 Fee Waiver for Low Income Persons

0780-05-11-.02 Fee Waiver for Low Income Persons is added as a new rule and shall read:

- (1) This rule is applicable to any state board, agency, or commission attached to the division of regulatory boards, as listed in T.C.A. § 4-3-1304(a). This rule shall be effective ninety (90) days from filing with the office of the Secretary of State.
- (2) As used in this rule, unless context otherwise requires:
 - (a) The terms "licensing," "licensing authority," "licensure fee," "low-income persons," and "state agency" shall have the same meanings as set out in T.C.A. § 62-76-105.
 - (b) "Assistance agency" means any state or federal agency empowered to administer a state or federal public assistance program that forms the basis for a request for a waiver under this rule and T.C.A. § 62-76-105.
 - (c) "Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance or the Commissioner's designee.
 - (d) "Department" means the Tennessee Department of Commerce and Insurance.
 - (e) "Qualifying program" means temporary assistance for needy families (TANF), Medicaid, supplemental nutrition assistance program (SNAP), or any other similar state or federal public assistance program determined by the Commissioner to be issued based on substantially similar income guidelines as one or more of those programs.
- (3) A request for a waiver of an initial licensure fee pursuant to T.C.A. § 62-76-105 shall be made in writing on a form prescribed by the Commissioner at the time of the initial application. The waiver request shall include:
 - (a) The full name, address, and phone number of the applicant requesting the waiver;
 - (b) The most recent document issued by the applicable assistance agency showing that the applicant requesting the waiver is enrolled in a qualifying program at the time that the waiver request is submitted to the Department. The Commissioner may request additional documentation to reasonably determine the applicant's eligibility for the waiver;
 - (c) A statement that the applicant acknowledges that the Department may contact any assistance agency to verify the applicant's enrollment in a qualifying program and that the Department is authorized to do so;
 - (d) A certification, under penalty of perjury, that the information contained in the request for the fee waiver is true and accurate to the best of the applicant's knowledge. This certification shall not be required to be notarized;
 - (e) If the basis for the fee waiver request is any program other than temporary assistance for needy families (TANF), Medicaid, or supplemental nutrition assistance program (SNAP), a written explanation of the nature of the program that the applicant claims entitles them to a

waiver of fees under these rules, a copy of the income guidelines for enrollment in the program issued by the assistance agency, and any other documentation that the applicant wishes to provide regarding the program having substantially similar income guidelines as one or more of TANF, Medicaid, or SNAP. A determination as to whether or not a program constitutes a substantially similar qualifying program shall be in the sole discretion of the Commissioner; and

- (f) Such other information as the Commissioner may reasonably request.
- (4) The initial licensure fee for a business entity (including, but not necessarily limited to, a Limited Liability Company, Limited Liability Partnership, or Corporation) or for a general partnership shall be waived if the person that is requesting and is entitled to the fee waiver under this rule owns the majority (more than half) of the business entity or general partnership. The ownership interest of two (2) or more persons may be combined to meet this threshold so long as the applicants comprising the majority ownership provide sufficient documentation for a fee waiver under this rule.

Authority: T.C.A. §§ 56-1-302(a)(5) & 62-76-105.

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

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--------------|-----|----|---------|--------|-------------------------|
| | | | | | |

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 06/07/2019 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 6/7/19

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce & Insurance

Subscribed and sworn to before me on: 6/7/19

Notary Public Signature: Denise M Lewis

My commission expires on: 1/15/20

Agency/Board/Commission: Tennessee Department of Commerce & Insurance

Rule Chapter Number(s): 0780-05-11-.02 Fee Waiver for Low Income Persons

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

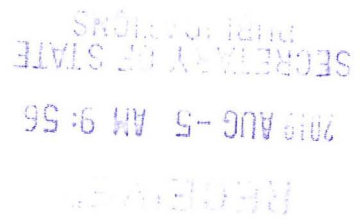
Herbert H. Slattery III
 Herbert H. Slattery III
 Attorney General and Reporter
7/26/2019
 Date

Department of State Use Only

Filed with the Department of State on: 8/5/19

Effective on: 11/3/19

Tre Hargett
 Tre Hargett
 Secretary of State



Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule, as proposed, will provide waivers of fees for certain applicants – both individuals and business entities. There is no foreseeable cost for small businesses as a result of the implementation of this rule. In fact, the proposed rule provides a potential benefit for small businesses by making licensure more accessible to low-income persons thus adding to the number of candidates eligible for hiring.

The proposed rule would require minimal, if any, costs for compliance. The rule is written so as to make it as easy as possible for qualified applicants to submit the necessary paperwork along with their application. The rule allows the applicant to submit the most recent document issued by the applicable assistance agency showing that the applicant requesting the waiver is enrolled in a qualifying program. Therefore, the applicant is not required to procure or produce any additional paperwork to establish that they are eligible to receive the fee waiver, thereby keeping costs low.

The proposed rule may affect small businesses, but in a positive way. The proposed rule would promote employment by increasing the volume of eligible candidates for hiring and for lowering the costs of licensure for certain employees and for a subset of small businesses themselves. As a result, an exemption for small businesses would not be beneficial.

The Department knows of no other less burdensome, less intrusive, or less costly alternative method to achieve the purposes and objectives of the proposed rules. The Department knows of no similar federal or state counterparts to the proposed rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Tennessee Department of Commerce & Insurance does not foresee any impact on local governments.

Additional Information Required by Joint Government Operations Committee

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

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

The proposed rule will waive initial licensure fees for low-income persons and certain business entities. A person qualifies for waiver of initial fees if they are enrolled in a state or federal public assistance program. A business entity qualifies for a waiver if the person or persons that request the waiver owns the majority (more than half) of the entity. The low-income person or business entity must request a waiver in writing at the time of the initial application.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed rule was drafted in response 2018 Public Chapter 954, codified as Tenn. Code Ann. § 62-76-105.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Department is unaware of entities that would either urge adoption or rejection of this rule.

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

The Department is unaware of any opinion of the attorney general or any judicial ruling that directly relates to this rule.

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

The Department foresees no probable increase or decrease in state and local government revenues or expenditures as a result of the promulgation of this rule.

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

Carter Lawrence, Deputy Commissioner for Regulatory Boards and Consumer Affairs;
Mark Green, Deputy General Counsel for Regulatory Boards and Consumer Affairs;
Denard Mickens, Chief General Counsel for Regulatory Boards and Consumer Affairs

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

Carter Lawrence, Deputy Commissioner for Regulatory Boards and Consumer Affairs;
Mark Green, Deputy General Counsel for Regulatory Boards and Consumer Affairs;
Denard Mickens, Chief General Counsel for Regulatory Boards and Consumer Affairs

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Carter Lawrence
500 James Robertson Parkway, Nashville, TN 37243
(615) 253-4265
Carter.Lawrence@tn.gov

Mark Green
500 James Robertson Parkway, Nashville, TN 37243
(615) 532-7617
Mark.Green@tn.gov

Denard Mickens
500 James Robertson Parkway, Nashville, TN 37243
(615) 741-8689
Denard.Mickens@tn.gov

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

There is no known additional relevant information.

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Sequence Number: _____
 Rule ID(s): _____
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Proposed Rule(s) Filing Form - **REDLINE**

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

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

Agency/Board/Commission: Tennessee Department of Commerce and Insurance
Division: Regulatory Boards Division
Contact Person: Denard Mickens
Address: 500 James Robertson Parkway, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-8689
Email: denard.mickens@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

| Chapter Number | Chapter Title |
|----------------|-----------------------------------|
| 0780-05-11 | General Provisions |
| Rule Number | Rule Title |
| 0780-05-11-.02 | Fee Waiver for Low Income Persons |
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2018 Proposed Rules
Tennessee Department of Commerce & Insurance

Chapter 0780-05-11
General Provisions
New Rule

Table of Contents

0780-05-11-.01 Assessment of Investigatory and Hearing Costs
0780-05-11-.02 Fee Waiver for Low Income Persons

0780-05-11-.02 Fee Waiver for Low Income Persons is added as a new rule and shall read:

- (1) This rule is applicable to any state board, agency, or commission attached to the division of regulatory boards, as listed in T.C.A. § 4-3-1304(a). This rule shall be effective ninety (90) days from filing with the office of the Secretary of State.
- (2) As used in this rule, unless context otherwise requires:
 - (a) The terms "licensing," "licensing authority," "licensure fee," "low-income persons," and "state agency" shall have the same meanings as set out in T.C.A. § 62-76-105.
 - (b) "Assistance agency" means any state or federal agency empowered to administer a state or federal public assistance program that forms the basis for a request for a waiver under this rule and T.C.A. § 62-76-105.
 - (c) "Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance or the Commissioner's designee.
 - (d) "Department" means the Tennessee Department of Commerce and Insurance.
 - (e) "Qualifying program" means temporary assistance for needy families (TANF), Medicaid, supplemental nutrition assistance program (SNAP), or any other similar state or federal public assistance program determined by the Commissioner to be issued based on substantially similar income guidelines as one or more of those programs.
- (3) A request for a waiver of an initial licensure fee pursuant to T.C.A. § 62-76-105 shall be made in writing on a form prescribed by the Commissioner at the time of the initial application. The waiver request shall include:
 - (a) The full name, address, and phone number of the applicant requesting the waiver;
 - (b) The most recent document issued by the applicable assistance agency showing that the applicant requesting the waiver is enrolled in a qualifying program at the time that the waiver request is submitted to the Department. The Commissioner may request additional documentation to reasonably determine the applicant's eligibility for the waiver;
 - (c) A statement that the applicant acknowledges that the Department may contact any assistance agency to verify the applicant's enrollment in a qualifying program and that the Department is authorized to do so;
 - (d) A certification, under penalty of perjury, that the information contained in the request for the fee waiver is true and accurate to the best of the applicant's knowledge. This certification shall not be required to be notarized;

- (e) If the basis for the fee waiver request is any program other than temporary assistance for needy families (TANF), Medicaid, or supplemental nutrition assistance program (SNAP), a written explanation of the nature of the program that the applicant claims entitles them to a waiver of fees under these rules, a copy of the income guidelines for enrollment in the program issued by the assistance agency, and any other documentation that the applicant wishes to provide regarding the program having substantially similar income guidelines as one or more of TANF, Medicaid, or SNAP. A determination as to whether or not a program constitutes a substantially similar qualifying program shall be in the sole discretion of the Commissioner; and
 - (f) Such other information as the Commissioner may reasonably request.
- (4) The initial licensure fee for a business entity (including, but not necessarily limited to, a Limited Liability Company, Limited Liability Partnership, or Corporation) or for a general partnership shall be waived if the person that is requesting and is entitled to the fee waiver under this rule owns the majority (more than half) of the business entity or general partnership. The ownership interest of two (2) or more persons may be combined to meet this threshold so long as the applicants comprising the majority ownership provide sufficient documentation for a fee waiver under this rule.

Authority: T.C.A. §§ 56-1-302(a)(5) & 62-76-105.

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

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--------------|-----|----|---------|--------|----------------------------|
| | | | | | |

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

Date: _____

Signature: _____

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce & Insurance

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Tennessee Department of Commerce & Insurance

Rule Chapter Number(s): 0780-05-11-.02 Fee Waiver for Low Income Persons

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

 Herbert H. Slatery III
 Attorney General and Reporter

 Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

 Tre Hargett
 Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule, as proposed, will provide waivers of fees for certain applicants – both individuals and business entities. There is no foreseeable cost for small businesses as a result of the implementation of this rule. In fact, the proposed rule provides a potential benefit for small businesses by making licensure more accessible to low-income persons thus adding to the number of candidates eligible for hiring.

The proposed rule would require minimal, if any, costs for compliance. The rule is written so as to make it as easy as possible for qualified applicants to submit the necessary paperwork along with their application. The rule allows the applicant to submit the most recent document issued by the applicable assistance agency showing that the applicant requesting the waiver is enrolled in a qualifying program. Therefore, the applicant is not required to procure or produce any additional paperwork to establish that they are eligible to receive the fee waiver, thereby keeping costs low.

The proposed rule may affect small businesses, but in a positive way. The proposed rule would promote employment by increasing the volume of eligible candidates for hiring and for lowering the costs of licensure for certain employees and for a subset of small businesses themselves. As a result, an exemption for small businesses would not be beneficial.

The Department knows of no other less burdensome, less intrusive, or less costly alternative method to achieve the purposes and objectives of the proposed rules. The Department knows of no similar federal or state counterparts to the proposed rule.

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- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The proposed rule was drafted in response 2018 Public Chapter 954, codified as Tenn. Code Ann. § 62-76-105.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Department is unaware of entities that would either urge adoption or rejection of this rule.

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

The Department is unaware of any opinion of the attorney general or any judicial ruling that directly relates to this rule.

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

The Department foresees no probable increase or decrease in state and local government revenues or expenditures as a result of the promulgation of this rule.

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

Carter Lawrence, Deputy Commissioner for Regulatory Boards and Consumer Affairs;
Mark Green, Deputy General Counsel for Regulatory Boards and Consumer Affairs;
Denard Mickens, Chief General Counsel for Regulatory Boards and Consumer Affairs

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

Carter Lawrence, Deputy Commissioner for Regulatory Boards and Consumer Affairs;
Mark Green, Deputy General Counsel for Regulatory Boards and Consumer Affairs;
Denard Mickens, Chief General Counsel for Regulatory Boards and Consumer Affairs

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Carter Lawrence
500 James Robertson Parkway, Nashville, TN 37243
(615) 253-4265
Carter.Lawrence@tn.gov

Mark Green
500 James Robertson Parkway, Nashville, TN 37243
(615) 532-7617
Mark.Green@tn.gov

Denard Mickens
500 James Robertson Parkway, Nashville, TN 37243
(615) 741-8689
Denard.Mickens@tn.gov

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

There is no known additional relevant information.