

**RULES
OF THE
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS**

**CHAPTER 0180-34
PUBLIC RECORDS REQUESTS**

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0180-34-.01 PURPOSE.

- (1) The Tennessee Public Records Act, in T.C.A. § 10-7-503(a)(2), provides that public records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- (2) The purpose of these rules is to establish procedures to accommodate requests from the public to inspect or obtain copies of public records maintained by the Tennessee Department of Financial Institutions to the extent that such public records are open to inspection by citizens of this state under the Tennessee Public Records Act, while at the same time preserving the confidentiality of confidential records or confidential information as provided in state or federal law.
- (3) Pursuant to T.C.A. § 10-7-503(g), these rules provide for:
 - (a) The process for making requests to inspect public records or receive copies of public records and a copy of any required request form;
 - (b) The process for responding to requests, including redaction practices;
 - (c) A statement of any fees charged for copies of public records and the procedures for billing and payment; and
 - (d) The name or title and the contact information of the individual or individuals within the Tennessee Department of Financial Institutions designated as the public records request coordinator.
- (4) Consistent with the Tennessee Public Records Act and these rules, personnel of the Tennessee Department of Financial Institutions shall timely and efficiently provide access and assistance to Tennessee citizens requesting to view or receive copies of public records. No provisions in these rules shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Tennessee Department of Financial Institutions, shall be protected as provided by state or federal law.
- (5) Concerns about the implementation of these rules should be addressed to the Public Records Request Coordinator for the Tennessee Department of Financial Institutions or to the Office of Open Records Counsel.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.02 DEFINITIONS.

- (1) "Department" means the Tennessee Department of Financial Institutions.
- (2) "Office of Open Records Counsel" or "OORC" means the office established under T.C.A. § 8-4-601, et seq., within the Tennessee Comptroller of the Treasury.
- (3) "Public Records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental entity.
- (4) "Public Records Request Coordinator" or "PRRC" means the individual, or individuals, designated in Rule 0180-34-.03, who has, or have, the responsibility to ensure that public record requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Tennessee Public Records Act. The PRRC may also be a records custodian.
- (5) "Records Custodian" means any office, official or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
- (6) "Requestor" means a person seeking access to a public record, whether it is for inspection or duplication.
- (7) "Tennessee Public Records Act" or "TPRA" means the state law codified in T.C.A. §§ 10-7-503, et seq., regarding access to public records.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.03 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) Public record requests shall be made to the PRRC or designee in order to ensure public records requests are routed to the appropriate Records Custodian and fulfilled in a timely manner.
- (2) The designated PRRC for the Department is the General Counsel; provided, however, that the responsibilities of the PRRC under this rule may be delegated to one or more employees under the supervision of the PRRC. The PRRC may be contacted at:

Public Records Request Coordinator
Tennessee Department of Financial Institutions
Administrative Division/Legal Section
312 Rosa L. Parks Avenue
26th Floor, Tennessee Tower
Nashville, Tennessee 37243
Telephone: (615) 741-2236 or 800-231-7831
Email: TDFI.contact@tn.gov

- (3) Requests only for inspection of public records may be made orally or in writing to the PRRC at the PRRC's mailing address, email address or phone number. The PRRC shall, however, request a U.S. mail address or email address from the Requestor in order to provide any written communication required under the TPRA.
- (4) Requests for copies, or requests for inspection and copies, shall be made in writing and may be made to the PRRC at the mailing address or email address provided.

(Rule 0180-34-.03, continued)

- (5) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or a Tennessee photo ID card (or alternative form of identification acceptable to the PRRC) is required as a condition to inspect or receive copies of public records.
- (6) The Department makes certain information, records, and forms available to the public on the Department's website at www.tn.gov/tdfi. Examples of the types of information regularly posted online by the Department include, but are not limited to, the announcement of the maximum effective formula rates of interests, the maximum effective rates of interest on home loans, the Department's annual report, a listing of chartered and licensed entities regulated by the Department, bank application information and application reports, the biennial report on the title pledge lending industry, formal actions pertaining to non-depository financial institutions regulated by the Department's Compliance Division that have been subject to a hearing, Department bulletins and the Department's consumer complaint form.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Public Records Request Coordinator
 - (a) The PRRC, or an employee under the supervision of the PRRC, shall review public records requests and make an initial determination of the following:
 1. If the Requestor provided evidence of Tennessee citizenship;
 2. If the records requested are described with sufficient specificity to identify them; and
 3. If the Department is the custodian of the requested records.
 - (b) The PRRC, or an employee under the supervision of the PRRC, shall acknowledge receipt of the request and take the following actions, if appropriate:
 1. Advise the Requestor of any determinations regarding proof of Tennessee citizenship;
 2. If appropriate, deny the request in writing, in whole or in part, providing the appropriate ground(s), such as one or more of the following:
 - (i) The Requestor is not, or has not presented evidence of being a Tennessee citizen;
 - (ii) The request lacks specificity or needs clarification;
 - (iii) The Department is not the custodian of the requested records;
 - (iv) The records requested are not subject to inspection under state or federal law; or
 - (v) The requested records do not exist.
 3. If appropriate, contact the Requestor to see if the request can be narrowed or clarified;

(Rule 0180-34-.04, continued)

4. Forward the public records request to the appropriate Records Custodian(s) in the Department with notice of the date the request was received and the deadline for when a response to the request is due; or
5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the Requestor of the correct governmental entity, and PRRC for that entity, if known.

(2) Records Custodian

- (a) Upon receiving a public records request from the PRRC, if the requested records are practicably available and not exempt from disclosure, a Records Custodian shall promptly make the requested public records available pursuant to T.C.A. § 10-7-503(a)(2)(B)(i). If the Records Custodian is uncertain that an applicable exemption applies, the Records Custodian may consult with the PRRC or the Office of the Tennessee Attorney General and Reporter.
- (b) If a Records Custodian determines that it is not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open or confidential; to redact the records; or for other similar reasons, the Records Custodian shall inform the PRRC. The PRRC shall then, within seven (7) business days from the PRRC's receipt of the request, send the Requestor a completed public records request response, pursuant to T.C.A. § 10-7-503(a)(2)(B)(iii).
- (c) If a Records Custodian reasonably determines that production of records should be in installments, the Records Custodian shall inform the PRRC, who shall, within seven (7) business days from the PRRC's receipt of the request, send the Requestor a public records request response informing the Requestor that the production of records will be in installments and that a records production schedule will be provided as expeditiously as practicable.
- (d) If a Records Custodian determines that a public records request should be denied because of an applicable exemption, the Records Custodian shall inform the PRRC, who shall, within seven (7) business days from the PRRC's receipt of the request, deny the request in writing, as provided in subparagraph (1)(b) above, pursuant to T.C.A. § 10-7-503(a)(2)(B)(ii).
- (e) If a Records Custodian discovers public records responsive to a public records request were omitted in a production, the Records Custodian shall notify the PRRC, who shall contact the Requestor concerning the omitted documents and produce those public records as quickly as practicable.

(3) Redaction

- (a) If a record contains confidential or privileged information or information that is not open for public inspection, the Records Custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the Records Custodian should coordinate with the PRRC or other appropriate parties regarding review and redaction of records. The Records Custodian and the PRRC may also consult with the Office of the Tennessee Attorney General and Reporter.
- (b) Whenever a redacted record is provided, a Records Custodian or PRRC should provide the Requestor with the basis for the redaction. The basis shall be general in nature and not disclose confidential or privileged information. A Records Custodian is otherwise not required to provide any sort of privilege log.

(Rule 0180-34-.04, continued)

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.05 INSPECTION OF RECORDS.

- (1) There shall be no charge for inspection of public records that are subject to inspection under the TPRA.
- (2) Inspection of records shall take place at the offices of the Tennessee Department of Financial Institutions, 312 Rosa L. Parks Avenue, 26th Floor, Tennessee Tower, Nashville, TN 37243. The location for inspection of records within the offices of the Tennessee Department of Financial Institutions shall be determined either by the PRRC or the appropriate Records Custodian.
- (3) Appointments for inspection of public records are required and may be scheduled by contacting the PRRC at TDFI.Contact@tn.gov or 615-741-2236 or 800-231-7831.
- (4) The TPRA grants Tennessee citizens the right to access open public records that exist at the time of the request. Nothing in the TPRA or these rules shall be construed as requiring a Records Custodian or the PRRC to sort through files to compile information or to create or recreate a record that does not exist.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.06 COPIES OF RECORDS.

- (1) A Records Custodian shall promptly respond to a public records request for copies.
- (2) Copies will be available for pickup at the Tennessee Department of Financial Institutions, 312 Rosa L. Parks Avenue, 26th Floor, Tennessee Tower, Nashville, TN 37243.
- (3) Upon payment for postage, copies will be mailed to the Requestor's home address by the United States Postal Service.
- (4) Except for the use of a cell phone or handheld camera, a Requestor will not be allowed to make copies of records with personal equipment including, but not limited to, portable scanners or portable copy machines.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.

0180-34-.07 FEES AND PROCEDURES FOR BILLING AND PAYMENT.

- (1) Fees for copies of public records shall not be used to hinder access to public records.
- (2) Prior to producing copies of records, a Records Custodian or the PRRC shall provide a Requestor with an itemized estimate of the fees and charges, to the extent possible.
- (3) Payment in advance is required for all requests for copies of records.
- (4) Fees for copies are as follows:
 - (a) 15 cents (\$0.15) per page for 8 ½" x 11" (letter) or 8 ½" x 14" (legal) black and white copies.

(Rule 0180-34-.07, continued)

- (b) 50 cents (\$0.50) per page for 8 ½" x 11" (letter) or 8 ½" x 14" (legal) color copies.
 - (c) No fees for copies shall be charged for requests of public records up to ten (10) pages in length.
- (5) In addition to the copy fees described in paragraph (4) above, labor charges for the time, in hours, to produce copies of records shall be imposed whenever the time exceeds one (1) hour. Labor charges shall be calculated by multiplying the base hourly wage rate of each employee by the time each employee spends in identifying, locating, and copying the records, minus the first hour of the most highly paid employee.
 - (6) At the Department's discretion, an outside copying vendor may be used to make copies of the requested records. If so, an employee of the Department shall transport the records to and from the vendor and maintain custody of the records at all times. The Requestor shall pay the actual costs assessed by the vendor and any applicable labor charges as provided in paragraph (5) above.
 - (7) Payment is to be made by cashier's check or money order made payable to the Tennessee Department of Financial Institutions.
 - (8) The Department may provide the requested public record(s) in an electronic format.
 - (9) The Department will not aggregate records requests when more than four (4) requests are received within a calendar month, either from a single individual or a group of individuals deemed working in concert and adopts the "Frequent and Multiple Request Policy" and any successor policy developed by the Office of Open Records Counsel.

Authority: T.C.A. §§ 10-7-503 and 45-1-107(h). **Administrative History:** Original rules filed September 30, 2019; effective December 29, 2019.