

**RULES
OF
TENNESSEE PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION**

**CHAPTER 1175-01
PRIVATE INVESTIGATION AND POLYGRAPH COMMISSION**

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1175-01-.01 PURPOSE.

The purpose of this chapter is to provide for the administration and implementation of the Private Investigators Licensing and Regulatory Act (*Tenn. Code Ann. § 62-26-201 et seq.*), herein referred to as the "Act".

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed September 19, 2003; effective December 3, 2003.

1175-01-.02 DEFINITIONS.

As used in this chapter, unless the context otherwise requires, the definitions of terms contained in *Tenn. Code Ann. § 62-26-202* of the Act are applicable.

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed September 19, 2003; effective December 3, 2003.

1175-01-.03 FINGER PRINTING.

- (1) An applicant required to submit fingerprints with his or her application for the purpose of allowing the commission to forward the fingerprints to the Tennessee Bureau of Investigation (TBI) and Federal Bureau of Investigation (FBI) as required by T.C.A. §§ 62-26-205 and 62-26-208 shall make 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. The commission shall notify every applicant in writing of the name, address and telephone number of any company contracted by the State to provide such a service. All private investigator and investigations company applicants shall comply with the following requirements regarding payment for the fingerprinting service:
 - (a) The commission may authorize the submission of three (3) sets of classifiable physical fingerprint cards in lieu of electronic fingerprints, as required above, at the expense of the applicant and rolled by a qualified person acceptable to the commission, for good cause.

(Rule 1175-01-.03, continued)

- (b) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
 - (c) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the commission all processing fees established by the TBI and FBI.
 - (d) Applicants shall in all cases be responsible for paying application fees as established by the commission regardless of the manner of fingerprinting the applicant used.
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the commission, or the Tennessee Bureau of Investigation (TBI) or Federal Bureau of Investigation (FBI), the commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable fingerprints" 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. 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.
 - (3) In the event that the fingerprint card submitted by an applicant is rejected or otherwise unable to be processed by the Tennessee Bureau of Investigation (TBI) and/or the Federal Bureau of Investigation (FBI), the applicant shall submit a new fingerprint card together with any additional fee(s) charged by the TBI and/or FBI for processing the new fingerprint card.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed June 9, 2003; effective August 23, 2003. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed September 12, 2006; effective November 26, 2006. Amendments filed February 8, 2012; effective May 8, 2012. Amendment filed November 4, 2015; effective February 2, 2016.

1175-01-.04 APPLICANTS FOR LICENSES.

- (1) Any applicant who seeks to qualify for a private investigators license must apply directly to the independent testing organization selected by the Commission to prepare and grade such examination. Payment of any examination (or re-examination) fee shall be the responsibility of the applicant. The independent testing organization will notify each examinee of the results of the examination.
- (2) A company license or written notice of company affiliation must be on file with the Commission office prior to the issuance of a personal private investigator license or license renewal.
- (3) Applications for private investigator or private investigations company licensing must be on file with this office prior to scheduling examination(s).
- (4) Upon termination of apprenticeship, applicant may not seek apprenticeship again.
- (5) An applicant denied for material misstatement is not eligible to reapply for licensure for a period of six (6) months from the date of denial. Appeals must be submitted to the commission in writing within thirty (30) days from the denial. All documentary dispositions and required court documents must be provided prior to a scheduled appeal hearing before the commission.
- (6) Disposition of the following crimes or actions taken by an authority having jurisdiction may disqualify an applicant, subject to the discretion of the commission:

(Rule 1175-01-.04, continued)

- (a) Conviction by any local, state, federal, or military court of any crime involving the illegal sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic;
 - (b) Conviction of any felony;
 - (c) Conviction of a crime involving unlawful breaking and entering, burglary, larceny, or arson;
 - (d) Conviction as a habitual criminal;
 - (e) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C.A. § 921(33);
 - (f) Any misdemeanor conviction involving:
 - 1. Shooting a firearm or other weapon;
 - 2. Shoplifting; or
 - 3. Assault and battery or other act of violence against persons or property.
- (7) An applicant may be disqualified for licensure for habitual drunkenness; narcotics addiction or dependence; and/or unlawful use of or addiction to any controlled substance, as defined in section 102 of the Controlled Substances Act, 21 U.S.C.A. § 902(6). This prohibition includes any person who is a current user of a controlled substance. The commission may draw an inference of current use from recent use or possession of a controlled substance, e.g., positive drug test upon arrest or during probation within the past year; a conviction for use or possession of a controlled substance within the past year; or multiple arrests for such offenses within the past five (5) years if the most recent arrest occurred within the past year.
- (8) An applicant may be disqualified for licensure for having been discharged from the armed forces under conditions less than honorable.
- (9) An applicant may be disqualified for licensure for being subjected to a court order restraining the applicant from committing an act of domestic violence. The order must have been issued after a hearing during which the person restrained received actual notice of the hearing and had an opportunity to participate in any proceedings. The restrained individual need have only an opportunity to participate in any proceedings; consequently, failure to appear at the proceeding or consent to the entry of the order without a hearing does not affect this prohibition. Consent orders and orders entered by a court of competent jurisdiction upon the applicant's failure to appear qualify under this prohibition.
- (10) 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 such license, 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. Under these circumstances, 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

(Rule 1175-01-.04, continued)

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 original issuance of the 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 no longer than the length of a renewal cycle for a full license of the same type.
 3. A temporary permit shall expire upon the date set by the commission and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the commission or by an extension of time granted by the commission for good cause.
 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.
- (c) 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 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.
- (11) 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:
- (a) Payment of late fees or other penalties; or
 - (b) Obtaining continuing education credits when:
 1. 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
 2. The person performs the licensed or certified occupation as part of such person's military duties and provides documentation sufficient to demonstrate such to the commission.
- (12) The license, certification or permit shall be eligible for renewal pursuant to Paragraph (11) for six (6) months from the person's release from active duty.
- (13) Any person renewing under Paragraph (11) shall provide the commission such supporting documentation evidencing activation as may be required by the commission prior to the renewal of any license pursuant to Paragraph (11).

Authority: T.C.A. §§ 62-26-204, 62-26-205, 62-26-206, 62-26-208, 62-26-217, 62-26-303(a), and 4-3-1304(d)(1). **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed March 3, 1995; effective May 17, 1995. Amendment filed February 8, 2012; effective May 8, 2012. Amendment filed August 14, 2015; effective November 12, 2015.

1175-01-.05 CHANGE OF COMPANY AFFILIATION AND CHANGE OF ADDRESS.

- (1) A licensee or an applicant shall notify the Commission in writing within thirty (30) days of any change in his or her home address.
- (2) A licensee or an applicant shall notify the Commission in writing within thirty (30) days of any change in company affiliation.

Authority: T.C.A. §§ 62-26-213 and 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed September 19, 2003; effective December 3, 2003.

1175-01-.06 NOTIFICATION OF TERMINATION.

An investigations company shall notify the Commission in writing within thirty (30) days of the death or termination of a private investigator. In the case of termination, the company shall state the reason for such termination.

Authority: T.C.A. §§ 62-26-303 and 62-26-213. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992.

1175-01-.07 INVESTIGATIONS AND COMPLAINTS.

- (1) The Commission may investigate any person engaged, or suspected of engaging, in any business or activity regulated under the Act.
- (2) Upon receipt of any written complaint against a licensee, the Commission may transmit a copy of such complaint to the accused party. Such party shall, within fourteen (14) days, file a written answer to the complaint with the Commission.

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992.

1175-01-.08 PROHIBITED REPRESENTATION.

No person shall represent that it (he/she), or any aspect of its (his/her) business or activity, has been recommended or endorsed by the Commission or the Department.

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992.

1175-01-.09 SURRENDER OF LICENSE OR IDENTIFICATION CARDS.

Any license or identification card which is revoked or suspended by the Commission shall be surrendered to the Commission within ten (10) days of the effective date of the revocation or suspension.

Authority: T.C.A. §§ 62-26-303 and 62-26-217. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992.

1175-01-.10 COPY FEE.

Upon request, any person not entitled under *Tenn. Code Ann. §62-26-220* of the Act to a free copy thereof and of any rules promulgated thereunder may obtain a copy from the Commission for a fee of five dollars and no cents (\$5.00).

(Rule 1175-01-.11, continued)

Authority: T.C.A. §§ 62-26-303 and 62-26-220. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed September 19, 2003; effective December 3, 2003.

1175-01-.11 LICENSE FEES.

- (1) The fees for licenses and applications are as follows:

Application fee for private investigator.....150.00

Investigation company application fee:

Number of private investigators employed by company:

Sole practitioner..... \$250.00

Two to five (2-5) employees \$500.00

Over five (5) employees..... \$1000.00

Application fee for branch office \$100.00
(when the branch office is not included in the original company application).

Private Investigator license..... \$100.00

Investigation company license fee:

Number of private investigators employed by the company:

Sole practitioner..... \$125.00

Two to five (2-5) employees \$250.00

Over five (5) employees 500.00

Branch company office license \$100.00

- (2) The fee for a duplicate license is twenty-five dollars (\$25.00).

- (3) The fees for retirement and activation of a private investigators license are as follows:

Retirement of a private investigator's license \$100.00

Reactivation of retired private investigator's license \$100.00

- (4) For the purposes of assessing the correct investigations company application and license fees, the employees referenced in T.C.A. § 62-26-208(a) and (b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license applicants whose licenses have not yet been issued and who prior to such issuance add any number of investigators above that number listed when application was made shall, prior to issuance, pay all application and license fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the initial application. An individual who applies for an investigations company license but is not a licensed private investigator and who at the time of issuance of that license has not yet employed a licensed private investigator shall be considered a sole practitioner for the purpose of issuing the license.

Authority: T.C.A. §§ 62-26-204(e), 62-26-205, 62-26-208, and 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed June 9, 2003; effective August 23, 2003. Amendment filed September 19, 2003; effective December 3, 2003 amendment filed September 12, 2006 effective; November 26, 2006. Amendment filed February 8, 2012; effective May 8, 2012.

1175-01-.12 RENEWAL FEES.

- (1) The fees for renewals of licenses are as follows:

(Rule 1175-01-.12, continued)

Private investigator	\$100.00
Investigation company renewal fee:	
Number of private investigators employed by company	
Sole practitioner.....	\$250.00
Two to five (2-5) employees	\$500.00
Over five (5) employees	\$1000.00
Branch company office	\$100.00
Late renewal penalty.....	\$100.00

(2) The fees for renewal of a retired private investigators license shall be as follows:

Retired licenses.....	\$25.00
Penalty for late renewal of retired license.....	\$50.00

(3) For the purposes of assessing the correct investigations company renewal fees, the employees referenced in T.C.A. § 62-26-211(b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license renewal applicants whose licenses have not yet been renewed and who prior to such renewal add any number of investigators above that number listed when renewal application was made shall, prior to renewal, pay all renewal fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the renewal application. Upon the employment of licensed private investigators, an individual holding an investigations company license as a sole proprietor pursuant to paragraph (4) of rule 1175-01-.11 shall not be counted in the total number of private investigators employed by that investigations company for the purpose of assessing the correct investigations company renewal fee.

(4) All late fees must be paid within the thirty (30) days prescribed by T.C.A. § 62-26-211(c).

Authority: T.C.A. §§ 62-26-204, 62-26-205, 62-26-208, 62-26-211, and 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Amendment filed June 9, 2003; effective August 23, 2003. Amendment filed February 8, 2012; effective May 8, 2012.

1175-01-.13 REPEALED.

Authority: T.C.A. §§ 62-26-204, 62-26-205, 62-26-208, 62-26-211, and 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992. Repeal filed March 3, 1995; effective May 17, 1995. Amendment filed February 8, 2012; effective May 8, 2012.

1175-01-.14 SEVERABILITY CLAUSE.

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the rules which can be given effect without the invalid provisions or application, and to that end the provision of these rules are declared to be severable.

Authority: T.C.A. § 62-26-303. **Administrative History:** Original rule filed August 24, 1992; effective October 8, 1992.

1175-01-.15 CIVIL PENALTIES.

- (1) With respect to any person, partnership, firm, association, corporation or entity required to be licensed by the Commission, the Commission may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such person, partnership, firm, association, corporation or entity for each separate violation of a statute, rule or order pertaining to the Commission in accordance with the following schedule:

Violation	Penalty
(a) Tenn. Code Ann. §62-26-217(a)(1)	\$1 - \$2,000
(b) Tenn. Code Ann. §62-26-217(a)(2)	\$1 - \$2,000
(c) Tenn. Code Ann. §62-26-217(a)(3)	\$1 - \$2,000
(d) Tenn. Code Ann. §62-26-217(a)(4)	\$1 - \$2,000
(e) Tenn. Code Ann. §62-26-217(a)(5)	\$1 - \$2,000

- (2) In determining the amount of any civil penalty to be assessed pursuant to this rule, the Commission may consider such factors as the following:
- Whether the amount imposed will be a substantial economic deterrent to the violator;
 - The circumstances leading to the violation;
 - The severity of the violation or risk of harm to the public;
 - The economic benefits gained by the violator as a result of non-compliance; and
 - The interest of the public.

Authority: T.C.A. §§ 56-1-308, 62-26-217, and 62-26-303. **Administrative History:** Original rule filed March 10, 1993; effective April 24, 1993. Amendment filed March 3, 1995; effective May 17, 1995. Amendment filed September 19, 2003; effective December 3, 2003.

1175-01-.16 APPRENTICESHIPS.

- An apprenticeship shall not commence until receipt by the applicant of written confirmation from the Commission that apprentice status has been granted.
- An apprentice shall not work without the direct supervision of a licensed investigator. Direct supervision shall mean in the direct physical presence of a licensed investigator.
- Any legal document relative to conducting or offering to conduct any investigation may not be executed by an apprentice.
- An apprentice shall at no time identify himself/ herself as a licensed investigator.
- Sponsoring companies are directly accountable and responsible for the investigative activities of their apprentice(s).

Authority: T.C.A. §§ 62-26-207 and 62-26-303. **Administrative History:** Original rule filed March 3, 1995; effective May 17, 1995.

1175-01-.17 RETIRED LICENSES.

- (1) A private investigator who has retired his or her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.
- (2) For the purpose of retirement of a private investigator license, the licensee must be in good standing with the commission and in compliance with all applicable law and rules.
- (3) Prior to returning the license to an active status, the licensee must have an affiliation with a licensed investigations company and will be required to complete the continuing professional education requirements for the renewal period from which the license is returned to active status.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, 62-26-225, and 62-26-303. **Administrative History:** Original rule filed June 9, 2003; effective August 23, 2003. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed February 8, 2012; effective May 8, 2012.

1175-01-.18 EXCEPTIONS TO APPLICABILITY.

- (1) For purposes of T.C.A. § 62-26-223(b)(3)(A), the term “employee” shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.
- (2) The activities performed by the National Insurance Crime Bureau, a non-profit organization, are not required to be performed by a licensed private investigator.
- (3) Persons performing the duties of a mortgage default inspector are not required to obtain a private investigator license provided that these persons only interview the homeowner/mortgagor to determine the reason for delinquency in payments. Additionally, if the property is vacant or appears to be so, the company representative performing these duties may talk to neighbors to verify occupancy status of the subject property and, after completion of duties, may file a report with the mortgage company detailing the findings.
- (4) Persons who perform the services of a “mystery shopper” or who are employed as a “mystery shopper” are not required to be licensed as a private investigator, as long as the “mystery shopper” is not performing private investigation services as defined in T.C.A. § 62-26-202(6) and (10). A “mystery shopper” is someone who is employed by a retail organization to assess the functioning of the retail organization, including but not limited to customer service and product quality.
- (5) Court reporters and persons who perform videographer services for depositions are not required to obtain a private investigator license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-223, and 62-26-303. **Administrative History:** Original rule filed June 9, 2003; effective August 23, 2003. Amendment filed September 19, 2003; effective December 3, 2003. Amendment filed February 8, 2012; effective May 8, 2012.

1175-01-.19 EVALUATION OF REQUIRED EXPERIENCE.

- (1) An applicant for an investigations company license may meet the experience requirement of T.C.A. § 62-26-206 by submitting a detailed résumé, a sworn statement that the applicant has the minimum amount of experience for the appropriate designation, and verification of two thousand (2,000) hours of compensated investigative experience. Acceptable proof of

(Rule 1175-01-.19, continued)

experience includes documentation from previous employers, submitted on each previous employer's letterhead, stating the number of hours for which the applicant was compensated and a detailed job description showing actual work experience as a private investigator. The commission may consider other proof in its discretion.

- (2) An applicant for an investigations company license may meet the education requirement of T.C.A. § 62-26-206 by submitting to the commission transcripts from an accredited college or university showing the course of study along with the number of hours completed and evidence of any degree earned. The commission has the discretion to review any submitted degree programs and fields of study for acceptability.
- (3) Military service may be acceptable experience to meet these qualifications if the applicant documents two thousand (2,000) hours of verifiable, compensated experience while serving in an investigative capacity with any federal, U.S. armed forces, state, county or municipal law enforcement agency or any other governmental agency.
- (4) Out-of-state applicants who own or operate their own investigations company, and who are not required to hold a license or registration in their state of residence, must provide the following documentation:
 - (a) A city, county or state business license showing the issuance and expiration date;
 - (b) A federal tax identification;
 - (c) Federal tax returns; and/or
 - (d) Corporate charter information documenting which state the applicant corporation was originally chartered in and the date on which the applicant corporation was chartered.
 - (e) The commission may consider documentation other than the above as acceptable in its discretion.
- (5) A "letter of good standing" is required from each jurisdiction for which the applicant holds a license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-26-206 and 62-26-303. **Administrative History:** Original rule filed February 8, 2012; effective May 8, 2012.