

**RULES
OF
THE TENNESSEE DEPARTMENT OF STATE
DIVISION OF BUSINESS SERVICES**

**CHAPTER 1360-08-06
FILING PROCEDURES FOR AFFIDAVITS AND PETITIONS FOR REVIEW**

TABLE OF CONTENTS

1360-08-06-.01	Filing Procedures for Affidavits and Petitions for Review	1360-08-06-.02	Contested Cases Pursuant to the Uniform Administrative Procedures Act, T.C.A. § 4-5-101, et seq.
----------------	--	----------------	--

1360-08-06-.01 FILING PROCEDURES FOR AFFIDAVITS AND PETITIONS FOR REVIEW.

- (1) Filing of Affidavit. Affidavits shall be filed in the Secretary of State's filing office in the division of business services. The Secretary of State shall mark the affidavit with the date and time the affidavit is received. The filing office maintains regular office hours of 8:00 a.m. to 4:30 p.m. central time, Monday through Friday and is closed on legal holidays pursuant to T.C.A. § 15-1-101. There is no cost to file an affidavit.
- (2) Delivery of Affidavit. Within three (3) days of receipt of an affidavit pursuant to T.C.A. § 47-9-513(e)(2)(A), the filing office shall send a copy of the affidavit to the secured party for the financing statement to which the affidavit relates. The copy of the affidavit shall be sent by registered or certified mail, with return receipt requested to the address on file for the secured party. Pursuant to T.C.A. § 47-9-513(e)(4)(B), the copy of the affidavit shall be deemed delivered to the secured party in the following instances: acceptance by the addressee, a statement in the return receipt of the United States postal service showing that the addressee refused to accept delivery, or the return of the copy of the affidavit by the United States postal service as undeliverable or unclaimed.
- (3) Filing of Petition for Review. The petition for review shall be filed with the Secretary of State's filing office in the division of business services. The Secretary of State shall mark the petition for review with the date and time the petition for review is received. The filing office maintains regular office hours of 8:00 a.m. to 4:30 p.m. central time, Monday through Friday and is closed on legal holidays pursuant to T.C.A. § 15-1-101.
- (4) Time for Filing Petition for Review. The secured party has twenty (20) days to file a petition for review with the filing office. The twenty (20) day deadline shall begin when the filing office receives notice of delivery or constructive delivery, evidenced by the return receipt of the United States postal service, notice of refusal or failure to sign the return receipt, or notice that the affidavit is undeliverable or unclaimed. If the petition for review is received by the filing office after the twenty (20) day deadline has expired, the petition will be rejected by the filing office, and the filing office shall void and remove from the public record the financing statement, along with all other documents associated with the financing statement pursuant to T.C.A. § 47-9-513(e)(6). The twenty (20) day deadline shall not be extended for any reason.
- (5) Contents of Petition for Review. The petition for review must contain a short and plain statement of the facts supporting and showing that the secured party's UCC financing statement was filed with reasonable basis or legal cause, and must include the following:
 - (a) A copy of the affidavit;
 - (b) The name, address, telephone number, and email address of the secured party filing the petition for review;

(Rule 1360-08-06-.01, continued)

- (c) A description of the collateral, including its location and value;
 - (d) A description of the security agreement between the debtor and the secured party, including the date and payment terms of the agreement. A copy of any written agreement between the debtor and the secured party shall be attached to the petition for review;
 - (e) Any other factors that are relevant to the determination of whether the financing statement was filed with reasonable basis or legal cause;
 - (f) The signature of the secured party or the secured party's attorney, and if the secured party is a business entity, the signature of an individual with authority to sign, as well as that individual's title within the business entity; and
 - (g) A valid cost bond as set forth below.
- (6) Cost Bond to Accompany Petition for Review. The petition for review must be accompanied by a cost bond in the amount of United States Two Hundred Dollars (\$200.00) in one (1) of the following forms:
- (a) Money order or cashier's check made payable to the "Tennessee Secretary of State;"
 - (b) Attorney's check. A check, made payable to the Tennessee Secretary of State, from an attorney licensed to practice law in good standing. An attorney must include his or her Board of Professional Responsibility number on the check for it to be considered valid;
 - (c) Surety. The filing office may accept a surety signed by an attorney licensed to practice in good standing, a bond from a licensed bonding company, or a corporate surety bond.
- (7) Rejection of Petition for Review. If the secured party fails to comply with subsection (5) and (6) of these rules within twenty (20) days as set forth in Rule 1360-08-06-.01(4), the petition for review shall be rejected by the filing office and the filing office shall void and remove from the public record the financing statement, along with all other documents associated with the financing statement, including the affidavit, pursuant to T.C.A. § 47-9-513(e)(6).

Authority: T.C.A. §§ 47-9-513 and 47-9-526. **Administrative History:** Emergency rules filed January 25, 2018; effective through July 24, 2018. Emergency rules expired effective July 25, 2018, and the rules reverted to their previous statuses. Original rules filed May 9, 2018; effective August 7, 2018.

1360-08-06-.02 CONTESTED CASES PURSUANT TO THE UNIFORM ADMINISTRATIVE PROCEDURES ACT, T.C.A. § 4-5-101, ET SEQ.

- (1) The filing of a petition for review and cost bond in compliance with T.C.A. § 47-9-513(e)(5)(A) and (B) will commence a contested case pursuant to the Uniform Administrative Procedures Act.
- (2) An administrative law judge will preside over the contested case. The administrative law judge shall make a determination as to whether the financing statement was filed with any reasonable basis or legal cause and shall issue an order that complies with T.C.A. § 4-5-314(c) within thirty (30) days of the close of the record of the proceedings. T.C.A. § 4-5-322 shall provide to either party the exclusive method of review of the administrative law judge's order.

(Rule 1360-08-06-.02, continued)

Authority: T.C.A. §§ 47-9-513 and 47-9-526. **Administrative History:** Emergency rules filed January 25, 2018; effective through July 24, 2018. Emergency rules expired effective July 25, 2018, and the rules reverted to their previous statuses. Original rules filed May 9, 2018; effective August 7, 2018.