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Sequence Number: 01-15-17
Rule ID(s): 6407
File Date: 1/17/17
Effective Date: 4/17/17

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 Financial Institutions
Division:	Compliance
Contact Person:	Troy McPeak, Assistant General Counsel
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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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
0180-24	Rules Pertaining to Home Equity Conversion Mortgages
Rule Number	Rule Title
0180-24-.04	Application Requirement

Chapter Number	Chapter Title
Rule Number	Rule Title

(Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0180-24
Rules Pertaining to Home Equity Conversion Mortgages

Amendment

Paragraph (2) of Rule 0180-24-.04, Application Requirement, is amended by deleting subparagraph (i) in its entirety and redesignating the remaining subparagraphs accordingly so that as amended Rule 0180-24-.04 shall read as follows:

0180-24-.04. Application Requirement.

- (1) Any person, firm or corporation (other than a bank, savings institution or credit union) seeking to engage in the business of making reverse mortgages may submit to the commissioner a written application for authorization to make reverse mortgage loans.
- (2) The application required by Chapter 0180-24-.04(1) shall be in letter form and shall include:
 - (a) A nonrefundable application fee of five hundred dollars (\$500).
 - (b) A copy of the applicant's license or registration (if applicable) under the Tennessee Residential Lending Brokerage and Servicing Act of 1988 (T.C.A. §45-13-101 et seq.)
 - (c) The name and complete business address or addresses of the applicant.
 - (d) Evidence that the applicant is an approved HUD lender.
 - (e) A current audited financial statement.
 - (f) If the applicant is a corporation, a copy of its charter and bylaws.
 - (g) A copy of the applicant's lending policies.
 - (h) A resume for each of the applicant's executive officers including the officers' date of birth.
 - (i) A statement as to whether the applicant or any employee of the applicant has been convicted of a felony and, if so, supporting details.
 - (j) A copy of the information to be provided to the borrowers by the lender pursuant to T.C.A. § 47-30-109 and Chapter 0180-24-.05.
 - (k) A sworn, notarized, statement as to the accuracy of the information provided in the application. Such statement shall contain the following or similar language: Having been duly sworn, and under the penalty of perjury, I hereby certify that the information provided to the commissioner in this application is truthful, complete, and correct.
- (3) Investigation. The commissioner may conduct an investigation into any aspect of the application as he or she may deem appropriate. This may include but not necessarily be limited to the character, financial condition and past business practices of the applicant and the applicant's officers, directors, employees, or shareholders.

Authority: T.C.A. §§ 45-1-107(h), 47-30-103 and 47-30-116(a).

* 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)
Not Applicable					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner of the Tennessee Department of Financial Institutions on 12/2/16, 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: 12/2/16

Signature: Greg Gonzales

Name of Officer: Greg Gonzales

Title of Officer: Commissioner

Subscribed and sworn to before me on: 12/2/16

Notary Public Signature: Paula J. Cagle

My commission expires on: July 2, 2018

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

12/15/2016

Date

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Filed with the Department of State on: 1/17/17

Effective on: 4/17/17

Tre Hargett

Tre Hargett
Secretary of State

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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.

This rule amendment that deletes the application requirement of submitting a copy of the most recent federal tax return for each of the applicant's executive officers will reduce the regulatory burden on all businesses including small businesses who file an application for authorization to make reverse mortgage loans.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule amendment will not have 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 Home Equity Conversion Mortgage Act (HECMA) (T.C.A. §§ 47-30-101, et seq.) states that only authorized lenders shall engage in the business of making reverse mortgages. The Tennessee housing development agency, and any bank, savings institution, or credit union may be designated as authorized lenders of reverse mortgage loans by providing notice to the Commissioner. See, T.C.A. § 47-30-103(b). All other persons, pursuant to T.C.A. § 47-30-103(c), shall submit an application for authorization to make reverse mortgage loans containing the information required in T.C.A. § 47-30-103(c) and Rule 0180-24-.04 of the Rules of the Department of Financial Institutions. Application requirements for authorization to make reverse mortgage loans are found in T.C.A. § 47-30-103(c) and in Chapter 0180-24 at Rule 0180-24-.04. Rule 0180-24-.04(2)(i) states that the application shall, among other requirements, include "a copy of the most recent federal tax return for each of the applicant's executive officers". This rule amendment will delete the application requirement of submitting a copy of the most recent federal tax return for each of the applicant's executive officers.

- (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;

T.C.A. § 45-1-107(h) grants the Commissioner of the Department of Financial Institutions the power to enact reasonable substantive and procedural rules to carry out the purpose of any and all chapters within the Commissioner's regulatory authority as conferred by law. T.C.A. § 47-30-103(c) states that the application for authority to make reverse mortgage loans shall include such information the Commissioner deems necessary to evaluate the applicant. T.C.A. § 47-30-116(a) states the Commissioner shall adopt rules necessary to implement and enforce HECMA.

- (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;

This rule amendment will affect any person, firm, or corporation who, pursuant to T.C.A. § 47-30-103(c), is required to file an application for authorization to make reverse mortgage loans. No other acts under the Department's regulatory jurisdiction require the submission of federal tax returns for each of the applicant's executive officers. Such a requirement is not necessary to evaluate applicants wanting to engage in the business of making reverse mortgages because applicants are already vetted under the mortgage license application process conducted by the Compliance Division of the Department of Financial Institutions, which includes the review of financial statements of the applicant and a fingerprint criminal background check. The federal tax returns of the executive officers, who can and do leave employment with the applicant, do not add any material information for evaluating an applicant. Since this rule amendment deletes this application requirement, those affected may support this amendment

- (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;

There are no known attorney general opinions that directly relate 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;

There will be no probable increase or decrease in state and local government revenues and expenditures resulting from this rule amendment.

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

Troy McPeak, Assistant General Counsel
Mike Igney, Assistant Commissioner, Compliance Division

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

Troy McPeak, Assistant General Counsel
Mike Igney, Assistant Commissioner, Compliance Division

- (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

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

None

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0180-24-.04. Application Requirement.

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 - (c) The name and complete business address or addresses of the applicant.
 - (d) Evidence that the applicant is an approved HUD lender.
 - (e) A current audited financial statement.
 - (f) If the applicant is a corporation, a copy of its charter and bylaws.
 - (g) A copy of the applicant's lending policies.
 - (h) A resume for each of the applicant's executive officers including the officers' date of birth.
 - ~~(i) A copy of the most recent federal tax return for each of the applicant's executive officers.~~
 - ~~(j)(i)~~ A statement as to whether the applicant or any employee of the applicant has been convicted of a felony and, if so, supporting details.
 - ~~(k)(j)~~ A copy of the information to be provided to the borrowers by the lender pursuant to T.C.A. § 47-30-109 and Chapter 0180-24-.05.
 - ~~(l)(k)~~ A sworn, notarized, statement as to the accuracy of the information provided in the application. Such statement shall contain the following or similar language: Having been duly sworn, and under the penalty of perjury, I hereby certify that the information provided to the commissioner in this application is truthful, complete, and correct.
- (3) Investigation. The commissioner may conduct an investigation into any aspect of the application as he or she may deem appropriate. This may include but not necessarily be limited to the character, financial condition and past business practices of the applicant and the applicant's officers, directors, employees, or shareholders.

Authority: T.C.A. §§ 45-1-107(h), 47-30-103 and 47-30-116(a).