

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
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For Department of State Use Only

Sequence Number: 01-24-17
Rule ID(s): 6411
File Date: 1/24/17
Effective Date: 4/24/17

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 Real Estate Commission
Division: Regulatory Boards
Contact Person: Sarah M. Mathews
Address: 500 James Robertson Parkway
Zip: 37243
Phone: 615-532-6303
Email: Sarah.Mathews@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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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
1260-02	Rules of Conduct
Rule Number	Rule Title
.01	Supervision of Affiliate Brokers

Chapter 1260-02
Rules of Conduct
Amendments

Rule 1260-02-.01 is amended by deleting paragraph (2) and renumbering current paragraph (3) appropriately so that, as amended, the rule shall read:

(1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.

(2) A licensee may be engaged only by a principal broker who is:

(a) engaged primarily in the real estate business; and

(b) accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15).

* 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)
John Griess	x				
Austin McMullen				x	
Diane Hills	x				
Marcia Franks	x				
Bobby Wood		x			
Rick Douglass	x				
Fontaine Taylor	x				
Gary Blume	x				
Johnny Horne	x				

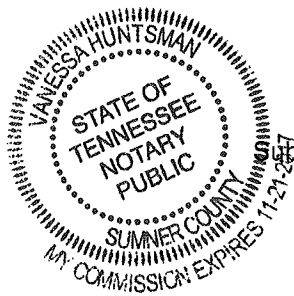
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Real Estate Commission on 10/06/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition 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: 01/4/2017

Signature: Sarah M. Mathews

Name of Officer: SARAH M. MATHEWS

Title of Officer: ASSISTANT GENERAL COUNSEL



Subscribed and sworn to before me on: 01/04/2017

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017

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
 Herbert H. Slatery III
 Attorney General and Reporter

1/12/2017 Date

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Rules of Tennessee Real Estate Commission
Chapter 1260-02 Rules of Conduct
Rule 1260-02-.01 Supervision of Affiliate Brokers

Filed with the Department of State on: 1/24/17

Effective on: 4/24/17



Tre Hargett
Secretary of State

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PUBLICATIONS

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.

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule;

This amendment would directly benefit the small businesses that are licensed as real estate firms, as affiliate brokers, brokers (working with firms as independent contractors), and time-share salespersons in the state of Tennessee by allowing licensees to affiliate with licensed real estate firms that are located more than 50 miles from the licensee's residence. There are approximately 38,000 small business licensees (firms or independent contractors) that would potentially benefit from the removal of this requirement.

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

There are no projected administrative costs as a result of these amendments.

3. A statement of the probable effect on impacted small businesses and consumers;

The probable effect on impacted small businesses that are licensed as real estate firms, affiliate brokers, brokers and time-share salespersons (working with firms as independent contractors) is that these licensees will be able to affiliate with the real estate firm of their choosing without being restricted by the distance from their home to the firm. There is no probable effect of this rule on consumers.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

The Commission knows of no other alternative method to achieve the goals exhibited by these rules.

5. A comparison of the proposed rule with any federal or state counterparts;

The Commission does not know of any other state or federal law that regulates the distance allowed between a licensee's residence and the firm with which they are affiliated.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

An exemption for small businesses to these rules would not be beneficial, as this rule removes a current restriction for small businesses that are licensed as real estate firms, affiliate brokers, brokers, and timeshare salespersons (working with firms as independent contractors).

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)

The Real Estate Commission foresees no 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;

This rule eliminates the requirement that any licensee who is not a principal broker or a property manager must live within 50 miles by straight line calculation from the firm with which they are affiliated.

- (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;

This rule change is not mandated by federal or state law or regulation.

- (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;

Licensed real estate firms and individuals who hold licenses as affiliate brokers, brokers or time-share salespersons will potentially be affected by this rule. It is anticipated that these individuals will urge adoption of the rule because it removes a requirement which restricts the distance allowed between the licensee's residence and the firm with which they are affiliated. Licensees will potentially have more options regarding where they can place their license.

- (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 or judicial rulings directly related 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 are no probable increases or decreases in state and local government revenues and expenditures resulting from the promulgation of this rule.

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

Malcolm Young, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 4th Floor
Nashville, TN 37243
615-741-3321

Sarah M. Mathews, Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
615-741-3072

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

Malcolm Young, Executive Director, Real Estate Commission
Sarah M. Mathews, Assistant General Counsel

- (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

Malcolm Young, Executive Director
500 James Robertson Parkway
Davy Crockett Tower, 4th Floor
Nashville, TN 37243
615-741-3321
Malcolm.young@tn.gov

Sarah M. Mathews, Assistant General Counsel
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- (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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1260-02	Rules of Conduct
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.01	Supervision of Affiliate Brokers

**Redline – 2016 Proposed Rules
Tennessee Real Estate Commission**

Chapter 1260-02
Rules of Conduct
Amendments

Rule 1260-02-.01 is amended by deleting paragraph (2) and renumbering current paragraph (3) appropriately so that, as amended, the rule shall read:

(1) No licensee shall engage in any real estate activity in any office unless there is a principal broker who devotes his full time to the management of such office.

~~(2) No principal broker shall engage a licensee (other than as a property manager) who lives more than fifty (50) miles by a straight line calculation from the firm office, unless the principal broker demonstrates in writing to the Tennessee Real Estate Commission's satisfaction that the distance involved is not unreasonable and that adequate supervision can be provided. For purposes of this rule, a property manager is defined as a licensee who engages exclusively in leasing and otherwise managing rental properties.~~

(~~2~~) A licensee may be engaged only by a principal broker who is:

- (a) engaged primarily in the real estate business; and
- (b) accessible during normal daytime working hours.

Authority: T.C.A. §§ 62-13-203 and 62-13-312(b)(15).