

## Notice of Rulemaking Hearing

### Private Investigation and Polygraph Commission

There will be a hearing before the Private Investigation and Polygraph Commission to consider the promulgation of rules pursuant to Tenn. Code Ann. §§62-32-307 and 62-32-318. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-204, and will take place in Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway, in Nashville, Tennessee 37243 at 9:00 a.m. (Central Time) on September 19, 2008.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5<sup>th</sup> Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact Cody Vest, Executive Director of the Tennessee Private Investigation and Polygraph Commission, 500 James Robertson Parkway, Andrew Johnson Tower 2<sup>nd</sup> Floor, Nashville, Tennessee 37243 at (615) 741-9771.

## Substance of Proposed Rules

### Chapter 1175-01

### Private Investigation and Polygraph Commission

#### Amendments

Paragraph (1) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) An applicant shall furnish the Commission with three (3) sets of classifiable 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 Tenn. Code Ann. § 62-26-208. An applicant shall be deemed to have furnished the Commission with three (3) sets of classifiable fingerprints if her or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the TBI and FBI and to forward a classifiable hard copy of the applicant's fingerprints to the Commission on standard TBI/FBI applicant cards. 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 private investigation company applicants shall comply with the following requirements regarding payment for the fingerprinting service:
  - (a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant;
  - (b) If the applicant chooses to request that the Commission process the fingerprint cards, then the applicant shall submit three (3) sets of classifiable fingerprints on cards provided by the Commission, with his or her application, for processing through the TBI and FBI. The applicant shall pay to the

Commission all processing fees established by the TBI and FBI.

- (c) If the applicant chooses to use the services of a company that has contracted with the state to provide electronic fingerprinting service, then the applicant shall make the arrangements for the processing of his or her fingerprints with the company directly and shall be responsible for payment of any fees associated with processing of fingerprints to the respective agency.
- (d) 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/FBI fingerprint cards with his or her application and shall pay the Commission all processing fees established by the TBI and FBI.
- (e) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.

Authority: T.C.A. §§62-26-205, 62-26-208, and 62-26-303.

Paragraph (2) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (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 can not be read and therefore, can not 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.

Authority: T.C.A. §§62-26-205, 62-26-208, and 62-26-303.

Paragraph (1) of Rule 1175-01-.11 License Fees is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) The fees for licenses and applications are as follows:
  - Application fee for private investigator ..... \$200.00
  - 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).
  - 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

Authority: T.C.A. §§62-26-204(e), 62-26-208, and 62-26-303.

Paragraph (1) of Rule 1175-01-.12 Renewal Fees is amended by deleting the text of the paragraphs in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) The fees for renewals of licenses are as follows
  - Private investigator .....\$200.00
  - 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

Authority: T.C.A. §§62-26-204, 62-26-211, and 62-26-303.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of July, 2008. (FS 07-23-08; DBID 885)