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Sequence Number: 08-17-13
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 File Date: 8/23/13

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Tony Greer, Assistant General Counsel
Address:	500 James Robertson Parkway Davy Crockett Tower, 8 th Floor Nashville, Tennessee 37243
Phone:	615-741-2199
Email:	tony.greer@state.tn.us

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway Davy Crockett Tower, 5 th Floor Nashville, Tennessee 37243
Phone:	615-741-0481
Email:	don.coleman@state.tn.us

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Tower, 8 th Floor Conference Room 8-C		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date:	10/14/13		
Hearing Time:	10:00 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

For a copy of this notice of rulemaking hearing, contact: Tony Greer, Department of Commerce and Insurance, Office of Legal Counsel, 500 James Robertson Parkway, Davy Crockett Tower, Twelfth Floor, Nashville, Tennessee 37243, and (615) 741-2199.

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. Please enter only ONE Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
0780-01-66	Standards And Commissioner's Authority For Companies Deemed To Be In Hazardous Financial Condition
Rule Number	Rule Title
0780-01-66-.02	Purpose
0780-01-66-.03	Standards
0780-01-66-.04	Commissioner's Authority

Chapter 0780-01-66
Standards And Commissioner's Authority For Companies
Deemed To Be In Hazardous Financial Condition

Amendments

Paragraph (1) of Rule 0780-01-66-.02 Purpose is amended by deleting the phrase "to the public, their creditors or to holders of their policies or certificates of insurance" and substituting the phrase "to their policyholders, creditors or the general public".

Rule 0780-01-66-.03 Standards is amended by deleting the Paragraph in its entirety and substituting the following language so that as amended the Paragraph shall read:

0780-01-65-.03 Standards

The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to its policyholders, creditors or the general public. The commissioner may consider:

- (1) Adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;
- (2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its other financial analysis solvency tools and reports;
- (3) Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;
- (4) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;
- (5) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (6) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (7) Whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the commissioner may affect the solvency of the insurer;
- (8) Contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

- (9) Whether any "controlling person" as defined in T.C.A. §§ 56-10-201 and 56-11-101 of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;
- (10) The age and collectibility of receivables;
- (11) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;
- (12) Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;
- (13) Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;
- (14) Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;
- (15) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;
- (16) Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;
- (17) Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;
- (18) Whether management persistently engages in material under reserving that results in adverse development;
- (19) Whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature; or,
- (20) Any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors or general public.

Authority: T.C.A. §§ 56-1-408, 56-1-409, 56-2-301, 56-9-101, 56-9-106, 56-9-503, 56-9-508, 56-11-106 and 56-11-109.

Subparagraph (b) of Paragraph (1) of Rule 0780-01-66-.04 Commissioner's Authority is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (b) Make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates consistent with the NAIC Accounting Policies And Procedures Manual, state laws and regulations;

Authority: T.C.A. §§ 4-5-101 et seq., 56-1-408, 56-1-409, 56-2-301, 56-9-101, 56-9-106, 56-9-503, 56-9-504, 56-9-508, 56-11-106 and 56-11-109.

Paragraph (2) of Rule 0780-01-66-.04 Commissioner's Authority is amended by deleting the phrase "hazardous to the policyholders, creditors or the general public" and substituting the phrase "hazardous to its policyholders, creditors or the general public".

Authority: T.C.A. §§ 4-5-101 et seq., 56-1-408, 56-1-409, 56-2-301, 56-9-101, 56-9-106, 56-9-503, 56-9-504, 56-9-508, 56-11-106 and 56-11-109.

Paragraph (2) of Rule 0780-01-66-.04 Commissioner's Authority is amended by adding the following as appropriately designated subparagraphs following subparagraph (i) and re-designating the remaining subparagraph; so that, as amended, the rule shall read:

- (j) Correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the commissioner;
- (k) Provide a business plan to the commissioner in order to continue to transact business in the state;
- (l) Notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the commissioner considers necessary to improve the financial condition of the insurer; or,
- (m) Take any other appropriate remedial action.

Authority: T.C.A. §§ 4-5-101 et seq., 56-1-408, 56-1-409, 56-2-301, 56-9-101, 56-9-106, 56-9-503, 56-9-504, 56-9-508, 56-11-106 and 56-11-109.

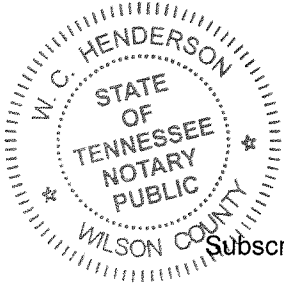
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 8/23/13

Signature: [Handwritten Signature]

Name of Officer: Tony Greer

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: August 23, 2013

Notary Public Signature: W.C. Henderson

My commission expires on: Sept 19, 2013

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Filed with the Department of State on: 8/23/13

[Handwritten Signature]
Tre Hargett

Secretary of State

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