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Sequence Number: 09-07-20
Notice ID(s): 3167
File Date: 9/4/2020

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

| | |
|---------------------------------|---|
| Agency/Board/Commission: | Tennessee Real Estate Commission |
| Division: | Regulatory Boards |
| Contact Person: | Anna D. Matlock |
| Address: | 500 James Robertson Parkway, Nashville, Tennessee |
| Phone: | (615) 253-0070 |
| Email: | Anna.Matlock@tn.gov |

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 Nashville, TN 37243 |
| Phone: | (615) 741-0481 |
| Email: | Don.Coleman@tn.gov |

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

| | | | |
|----------------|-----------------------------|---|----------------------------------|
| Address 1: | 500 James Robertson Parkway | | |
| Address 2: | | | |
| City: | Nashville | | |
| Zip: | 37243 | | |
| Hearing Date : | November 12, 2020 | | |
| Hearing Time: | 1:30 p.m. | <input checked="" type="checkbox"/> CST/CDT | <input type="checkbox"/> EST/EDT |

Additional Hearing Information:

In the event that this in-person hearing is prohibited by reason of Executive Order, closure of the building, or a determination by the Commission, this hearing will be conducted via WebEx. In such a case, the meeting may be accessed here:

Meeting number (access code): 171 659 6085

Meeting password: TfC37Jywm3m

Join by phone: +1-415-655-0003 US TOLL

Join from a video system or application: Dial 1716596085@tngov.webex.com; You can also dial 173.243.2.68 and enter your meeting number.

Revision Type (check all that apply):

Amendment
 New

Rules of Tennessee Real Estate Commission
Chapter 1260-01 Licensing
Rule 1260-01-.01 Applications for Examinations

____ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title |
|-----------------------|-------------------------------|
| 1260-01 | Licensing |
| Rule Number | Rule Title |
| 1260-01-.01 | Applications for Examinations |

Redline – 2020 Rulemaking Hearing Notice
Tennessee Real Estate Commission

Chapter 1260-01: Licensing
Amendments

Rule 1260-01-.01 is amended by deleting the text of the rule in its entirety and substituting instead language so that, as amended, Rule 1260-01-.01 shall read:

1260-01-.01 APPLICATIONS FOR EXAMINATIONS.

(1) Affiliate Brokers. Applicants for the affiliated brokers examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing information required, and deadlines for submission of examination applications.

(2) Brokers. Applications for the broker's examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing, information required, and deadlines for submission of examination applications.

(3) An applicant who passes an examination is not necessarily qualified for licensure.

(4) If a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied the issuance of a license based solely on the person's past record of criminal activity but shall instead be required to appear before the Commission for the purpose of the Commission considering on a case-by-case basis whether to grant or deny the issuance of the license.

(5) If within the past ten (10) years, an applicant has been convicted of or pled nolo contendere or guilty to any Class A, B, or C felony or a misdemeanor involving the theft of services, money or property, or had disciplinary sanctions imposed on them by any local, state or federal occupational licensing body, the applicant shall:

(a) Complete and submit a form prescribed by the Commission containing information relevant to the conviction, plea or disciplinary sanction.

(b) Submit certified copies of the court disposition or other document acceptable to the Commission for each conviction, plea of guilty or nolo contendere or a copy of the order or other document which shows the disciplinary action taken by the local, state or federal agency and the factual and legal basis for the action, whichever is applicable.

1. If the background check produced pursuant to T.C.A. § 62-13-303(l) does not reveal the disposition of any arrest or charge related to a Class A, B, or C felony or a misdemeanor involving theft of services, money or property and the charge has been dismissed, nolle prosequi or otherwise disposed of without conviction or a plea of guilty or nolo contendere, the applicant shall submit certified copies of the court disposition or other document acceptable to the Commission for each such arrest or charge.

2. If the court has no record of the arrest, charge, or conviction due to age of the record or any other reason, the applicant shall submit a letter from the court clerk stating the absence of the record(s).

(c) Appear before the Commission for the purpose of determining if the conviction, plea or disciplinary sanction constitutes grounds for denial of a license and, if so, whether or not the applicant may move forward with the licensing process. The applicant shall ensure the presence of his or her principal broker (or intended principal broker) in accordance with Tenn. Comp. R. & Regs. 1260-01-.19.

(d) An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

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: September 4, 2020

Signature: *Anna D. Matlock*

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

Department of State Use Only

Filed with the Department of State on: 9/4/2020

Tre Hargett
Tre Hargett
Secretary of State

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Notice of Rulemaking Hearing - **REDLINE**

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(2) Brokers. Applications for the broker's examination must follow the procedures published by the testing vendor approved by the Tennessee Real Estate Commission concerning appointments for testing, information required, and deadlines for submission of examination applications.

(3) An applicant who passes an examination is not necessarily qualified for licensure.

~~(4) No person shall be eligible for examination or be considered for licensure unless two (2) years have passed from the date of expiration of probation, parole or conviction, or from the date of release from incarceration, whichever is later in time. This restriction shall apply to all felonies, and to misdemeanors which involve the theft of money, services, or property. An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.~~

~~(4)(5) Notwithstanding the provisions of paragraph (4) of this rule,~~ if a person possesses a certificate of employability pursuant to T.C.A. § 40-29-107, that person shall not be denied the issuance of a license based solely on the person's past record of criminal activity but shall instead be required to appear before the Commission for the purpose of the Commission considering on a case-by-case basis whether to grant or deny the issuance of the license.

~~(5)(6)~~ If within the past ten (10) years, an applicant has been convicted of or pled nolo contendere or guilty to any Class A, B, or C felony or a misdemeanor involving the theft of services, money or property, or had disciplinary sanctions imposed on them by any local, state or federal occupational licensing body, the applicant shall:

(a) Complete and submit a form prescribed by the Commission containing information relevant to the conviction, plea or disciplinary sanction.

(b) Submit certified copies of the court disposition or other document acceptable to the Commission for each conviction, plea of guilty or nolo contendere or a copy of the order or other document which shows the disciplinary action taken by the local, state or federal agency and the factual and legal basis for the action, whichever is applicable.

1. If the background check produced pursuant to T.C.A. § 62-13-303(l) does not reveal the disposition of any arrest or charge related to a Class A, B, or C felony or a misdemeanor involving theft of services, money or property and the charge has been dismissed, nolle prosequi or otherwise disposed of without conviction or a plea of guilty or nolo contendere, the applicant shall submit certified copies of the court disposition or other document acceptable to the Commission for each such arrest or charge.

2. If the court has no record of the arrest, charge, or conviction due to age of the record or any other reason, the applicant shall submit a letter from the court clerk stating the absence of the record(s).

(c) Appear before the Commission for the purpose of determining if the conviction, plea or disciplinary sanction constitutes grounds for denial of a license and, if so, whether or not the applicant may move

forward with the licensing process. The applicant shall ensure the presence of his or her principal broker (or intended principal broker) in accordance with Tenn. Comp. R. & Regs. 1260-01-.19.

(d) An applicant who appears before the Commission requesting licensure and who is denied will not be eligible for reconsideration for six (6) months from the date of denial.

Authority: T.C.A. §§ 62-13-112, 62-13-203, 62-13-301, 62-13-303, 62-13-312, ~~and~~ 40-29-207, and 62-76-104.

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: September 4, 2020

Signature: _____

Anna D. Matlock

Name of Officer: Anna D. Matlock

Title of Officer: Associate General Counsel

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State