

Proposed Rules
Of the
Department of Finance and Administration

Chapter 0620-3-7
Limitations of Liability in State Services

Presented herein are proposed amendments of the Department of Finance and Administration submitted pursuant to T.C.A. Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in the Department of Finance and Administration, Office of the General Counsel, Suite 2100, William R. Snodgrass Tennessee Tower located at 312 8th Avenue North, Nashville, Tennessee 37243 and in the Department of State, 8th floor, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243 and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: April Mayambu, Office of the General Counsel, Department of Finance and Administration Suite 2100, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243, (615) 741-0320.

The text of the proposed amendments is as follows:

Amendments

Rule 0620-3-7-.01 Policy Statement and Scope of Rules is amended by deleting from paragraph (3) the words "information technology" so that, as amended, the paragraph shall read:

- (3) These rules shall apply to contracts for the purchase of services that are procured pursuant to the Rules of the Department of Finance and Administration, Chapter 0620-3-3, Personal Service, Professional Service, and Consultant Service Contracts.

Authority: T.C.A. Section 4-5-202 and T.C.A. Section 12-4-119.

Subparagraph (a) of paragraph (1) of rule 0260-3-7-.02 Approval for Limitation of Liability is amended by deleting the words "information technology" so that, as amended, the subparagraph shall read:

- (a) Any request to permit the limitation of contractor liability in a state contract for services must be made and a decision made thereupon at the appropriate time in the procurement process to ensure that no such decision shall detrimentally impact the fairness of the procurement or the interests of the state in competitive procurements.

Authority: T.C.A. Section 4-5-202; T.C.A. Section 12-4-119.

Subparagraph (a) of paragraph (2) of rule 0260-3-7-.02 Approval for Limitation of Liability is amended by deleting the words "information technology" so that, as amended, the subparagraph shall read:

- (a) If any agency seeking to purchase services considers it necessary to accept a limitation of liability, it shall submit a request to use a limitation of liability clause to the Commissioner of Finance and Administration.

Authority: T.C.A. Section 4-5-202; T.C.A. Section 12-4-119.

Part 2 of Subparagraph (b) of paragraph (2) of rule 0260-3-7-.02 Approval for Limitation of Liability is amended by deleting the words "information technology" so that, as amended, the part shall read:

2. The risks of liability to the State created by the services purchased under the contract, and the impact on the State by allowing a limitation

Authority: T.C.A. Section 4-5-202; T.C.A. Section 12-4-119.

Subparagraph (a) of paragraph (3) of rule 0260-3-7-.02 Approval for Limitation of Liability is amended by deleting the words "information technology" so that, as amended, the subparagraph shall read:

- (a) Said written approval permitting a limitation of liability shall be filed with the Comptroller of the Treasury. The written approval shall be presented along with the subject contracting documents submitted to the Department of Finance and Administration for approval processing.

Authority: T.C.A. Section 4-5-202; T.C.A. Section 12-4-119.

The proposed rules set out herein were properly filed in the Department of State on the 18th day of December, 2006, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 30th day of April, 2007. (12-22-06)