

TAAAR



June 15, 2001
Volume 27, Number 6

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Secretary of State

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Nashville TN 37243 - 0310

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PREFACE

The Tennessee Administrative Register (T.A.R) is an official publication of the Tennessee Department of State. The *T.A.R.* is compiled and published monthly by the Department of State pursuant to *Tennessee Code Annotated, Title 4, Chapter 5*. The *T.A.R.* contains in their entirety or in summary form the following: (1) various announcements (e.g. the maximum effective rate of interest on home loans as set by the Department of Commerce and Insurance, formula rate of interest and notices of review cycles); (2) emergency rules; (3) proposed rules; (4) public necessity rules; (5) notices of rulemaking hearings and (6) proclamations of the Wildlife Resources Commission.

Emergency Rules are rules promulgated due to an immediate danger to the public health, safety or welfare. These rules are effective immediately on the date of filing and remain in effect thereafter for up to 165 days. Unless the rule is promulgated in some permanent form, it will expire after the 165-day period. The text or a summary of the emergency rule will be published in the next issue of the *T.A.R.* after the rule is filed. Thereafter, a list of emergency rules currently in effect will be published.

Proposed Rules are those rules the agency is promulgating in permanent form in the absence of a rulemaking hearing. Unless a rulemaking hearing is requested within 30 days of the date the proposed rule is published in the *T.A.R.*, the rule will become effective 105 days after said publication date. All rules filed in one month will be published in the *T.A.R.* of the following month.

Public Necessity Rules are promulgated to delay the effective date of another rule that is not yet effective, to satisfy constitutional requirements or court orders, or to avoid loss of federal programs or funds. Upon filing, these rules are effective for a period of 165 days. The text or summary of the public necessity rule will be published in the next issue of the *T.A.R.* Thereafter, a list of public necessity rules currently in effect will be published.

Once a rule becomes effective, it is published in its entirety in the *official compilation-Rules and Regulations of the State of Tennessee*. Replacement pages for the compilation are published on a monthly basis as new rules or changes in existing rules become effective.

Wildlife Proclamations contain seasons, creel, size and bag limits, and areas open to hunting and/or fishing. They also establish wildlife and/or public hunting areas and declare the manner and means of taking. Since Wildlife Proclamations are published in their entirety in the *T.A.R.*, they are not published in the official compilation-Rules and Regulations of the State of Tennessee.

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Copies of Rules from Back Issues of the *Tennessee Administrative Register* may be ordered from the Division of Publications for 25 cents per page with \$ 1.00 minimum. Back issues presently available start with the August, 1975 edition. The mailing address of the Division of Publications is shown on the order form in the back of each issue.

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DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF FORMULARATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 11.00 per cent.

This announcement is placed in the Tennessee Administrative Register for the purpose of information only and does not constitute a rule within the meaning of the Uniform Administrative Procedures Act.

DEPARTMENT OF FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of July, 2001 is 9.80 per cent per annum.

The rate as set by the said law is an amount equal to four percentage points above the index of market yields of long term government bonds adjusted to a thirty (30) year maturity by the U. S. Department of the Treasury. For the most recent weekly average statistical data available preceding the date of this announcement, the published rate is 5.80 per cent.

Persons affected by the maximum effective rate of interest for home loans as set forth in this notice should consult legal counsel as to the effect of the Depository Institutions Deregulation and Monetary Control Act of 1980 (P. L. 96-221 as amended by P. L. 96-399) and regulations pursuant to that Act promulgated by the Federal Home Loan Bank Board. State usury laws as they relate to certain loans made after March 31, 1980, may be preempted by this Act.

GOVERNMENT OPERATIONS COMMITTEES

ANNOUNCEMENT OF PUBLIC HEARINGS

For the date, time, and, location of this hearing of the Joint Operations committees, call 615-741-3642. The following rules were filed in the Secretary of State's office during the month of May, 2001. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-01	May 3, 2001	1370 Board of Communications Disorders and Sciences	Rulemaking Hearing Rules	Amendments	<i>Chapter 1370-1 Rules for Speech Pathology and Audiology Disciplinary Actions, Civil Penalties, Assessment of Costs and Subpoenas</i>	Earl Roberts OGC 26th Fl Snodgrass/TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	July 17, 2001
05-04	May 4, 2001	0030 Commission on Aging	Rulemaking Hearing Rules	New Rules	<i>Chapter 0030-2-1 State-Funded Home and Community Based Services for Elderly and Disabled Adults</i> 0030-2-1-.01 Purpose 0030-2-1-.02 Cost Sharing and Participant Contribution Requirements 0030-2-1-.03 Intrastate Allocation Formula	Peggy D. DePriest, OGC 26th Fl Snodgrass/TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	July 18, 2001
05-08	May 16, 2001	0080 Agriculture Division of Regulatory Services	Proposed Rules	Amendments	<i>Chapter 0080-6-22 Boll Weevil Eradication</i> 0080-6-22-.02 Definitions 0080-6-22-.05 Elimination Area 0080-6-22-.11 Reporting and Location of Cotton Acreage 0080-6-22-.12 Program Participation, Fee Payment, Penalties and Credits 0080-6-22-.14 Cotton Stalk Destruction	Patricia Clark, General Counsel Dept of Agriculture P.O. Box 40627 Nashville, TN 37204 615-837-5093	September 28, 2001
05-11	May 18, 2001	0620 Finance and Administration	Rulemaking Hearing Rules	New rules	<i>Chapter 0620-3-7 Limitations of Liability in State Services</i> 0620-3-7-01 Policy Statement and Scope of Rules 0620-3-7-02 Approval for Limitation of Liability	Mark Cherpack Suite 2100, 312 8 th Ave N Snodgrass/TN Twr Nashville, TN 37243 (615) 253-4706	August 1, 2001
05-14	May 22, 2001	0800 Labor and Workforce Development Division of Employment Security	Proposed rules	Amendments	<i>Chapter 0560-1-1 Unemployment Insurance Benefits</i> <i>Chapter 0560-2-1 Premiums</i> <i>Chapter 0560-2-2 Employment and Services</i> <i>Chapter 0560-2-3 Employer</i> <i>Chapter 0560-2-4 Wages</i> <i>Chapter 0560-3-1 Board of Review Meetings</i> <i>Chapter 0560-3-2 Board of Review and Appeals Tribunal</i> <i>Chapter 0560-3-3 Appeals to Board of Review</i> <i>Chapter 0560-3-4 General Regulations for Both Appeal Stages</i>	Mike Fort 25 th Fl Snodgrass/TN Twr 312 8 th Ave N Nashville TN 37243-0100	September 28, 2001

ANNOUNCEMENTS

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-15	May 23, 2001	0880 Dept of Agriculture Division of Forestry	Rulemaking Hearing Rules	New Rules	Chapter 0080-7-2 <i>Forestry Best Management Practices</i> 0080-7-2-.01 Identification of Forestry Best Management Practices (BMP) – General 0080-7-2-.02 BMPs That Prevent Erosion, Soil Loss, and Potential Sedimentation 0080-7-2-.03 BMPs That Manage the Placement of Logging Debris and Operation of Equipment	Ken Arney, State Forester Agriculture Division of Forestry Ellington Agricultural Center Nashville, TN 37204 (615) 837-5411	August 6, 2001
05-16	May 24, 2001	0880 Dept of Agriculture Regulatory Services Division	Proposed Rules	Amendments	Chapter 0080-5-10 <i>Commercial Fertilizers Regulations</i> 0080-5-10-.09 Tonnage Reports and Inspection Fees	Patricia Clark, General Counsel Agriculture Ellington Agricultural Center POB 40627 Meirose Station Nashville, TN 37204 615-837-5093	September 28, 2001
05-18	May 30, 2001	0620 Finance and Administration Division of Accounts	Rulemaking Hearing Rules	New Rules	Chapter 0620-1-10 <i>Procedures for Returned Checks</i> 0620-1-10-.01 Introduction 0620-1-10-.02 Remedies For Payments To The State With Dishonored Financial Instruments	C. Warren Neel, PhD Commissioner Finance and Administration State Capitol –0285	August 13, 2001
05-21	May 30, 2001	0780 Commerce and Insurance Division of Insurance	Public Necessity Rules	New Rules	Chapter 0780-1-72 <i>Privacy of Consumer Information Regulations</i> 0780-1-72-.01 Authority 0780-1-72-.02 Purpose and Scope 0780-1-72-.03 Rule of Construction 0780-1-72-.04 Definitions 0780-1-72-.05 Initial Privacy Notice to Consumers Required 0780-1-72-.06 Annual Privacy Notice to Customers Required 0780-1-72-.07 Information to be Included in Privacy Notices 0780-1-72-.08 Form of Opt Out Notice to Consumers and Opt Out Methods 0780-1-72-.09 Revised Privacy Notices 0780-1-72-.10 Delivery 0780-1-72-.11 Limitation on Disclosure of Nonpublic Personal Information to Nonaffiliated Third Parties		May 30, 2001 through Nov 19, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-21, cont.					0780-1-72-.12 Limits on Redisclosure and Reuse of Nonpublic Personal Information 0780-1-72-.13 Limits on Sharing Account Number Information for Marketing Purposes 0780-1-72-.14 Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Information for Service Providers and Joint Marketing 0780-1-72-.15 Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information for Processing and Servicing Transactions 0780-1-72-.16 Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information 0780-1-72-.17 [Reserved] 0780-1-72-.18 [Reserved] 0780-1-72-.19 [Reserved] 0780-1-72-.20 [Reserved] 0780-1-72-.21 [Reserved] 0780-1-72-.22 Protection of Fair Credit Reporting Act 0780-1-72-.23 Nondiscrimination 0780-1-72-.24 Violation 0780-1-72-.25 Severability 0780-1-72-.26 Effective Date Appendix A – Sample Clauses	Patricia S. Wall Legal Services Division Dept of Safety 1150 Foster Ave Nashville, TN 37249-1000 (615) 251-5296	Sept 28, 2001
05-22	May 31, 2001	1340 Safety Administrative Division	Proposed Rules	New Rules	Chapter 1340 Driver License Reinstatement Fee Installment Payment Plan 1340-2-5-.01 Scope and Construction 1340-2-5-.02 Persons Eligible To Enter Into The Driver License Reinstatement Fee Installment Payment Plan 1340-2-5-.03 Duration Of The Driver License Reinstatement Fee Installment Payment Plan. 1340-2-5-.04 Minimum Payment 1340-2-5-.05 Method Of Payment 1340-2-5-.06 Failure To Comply With The Reinstatement Fee Installment		

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
05-22, cont.					1340-2-5-.07 Payment Plan Persons Not Eligible To Enter The Reinstatement Fee Installment Payment Plan 1340-2-5-.08 Suspensions Of License For Failure To Comply With The Reinstatement Fee Installment Payment Plan 1340-2-5-.09 Administrative Hearings 1340-2-5-.10 Administration Fee 1340-2-5-.01 Scope and Construction.		

HEALTH FACILITIES COMMISSION - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE**

Applications will be heard at the July 25, 2001 Health Facilities Commission Meeting except as otherwise noted.

*Denotes applications being placed on the Consent Calendar.

+Denotes applications under simultaneous review.

This is to provide official notification that the Certificate of Need applications listed below have begun their official 90-day review cycle effective May 1, 2001. The review cycle includes a 60-day period of review by the Division of Assessment and Planning within the Tennessee Department of Health or the Department of Mental Health and Mental Retardation. During this 60-day period, the Department of Health may hold a public hearing, if requested, with respect to each application and will conclude the period with a written report. Pursuant to Public Chapter 120, Acts of 1993, certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a 60-day review cycle, including a 30-day period of review by the Department of Health, Division of Assessment and Planning or the Department of Mental Health and Mental Retardation. Applications intended to be considered on the consent calendar, if any, are denoted by an asterisk.

Pursuant to T.C.A., Section 68-11-108(h)(1) effective April 5, 2000, any health care institution wishing to oppose a Certificate of Need must file a written objection with the Tennessee Health Facilities Commission and serve a copy on the contact person no later than fifteen (15) days before the regularly scheduled Tennessee Health Facilities Commission meeting at which the application will be heard.

For more information concerning each application or its review cycle, you may contact the Tennessee Department of Health/ Division of Assessment & Planning (615/741-0244), their designee, or the Health Facilities Commission (615/741-2364).

NAME AND ADDRESS

DESCRIPTION

Open MRI of Tri Cities, Inc.
Boones Creek Business Park
2898 Boones Creek Road
Johnson City (Washington Co.), TN 37615
Graham Baker – (615)—383-3332
CN0103-019

The establishment of an outpatient diagnostic center, acquisition of an Open MRI unit, and the initiation of MRI services. The proposed facility will be located at Boones Creek Business Park, 2898 Boones Creek Road, in Johnson City, Washington County, Tennessee.
\$ 2,230,750.00

Williamson Medical Center
2021 N. Carothers Road
Franklin (Williamson Co.), TN 37067-5822
Lin S. Howard – (615)—251-1063
CN0104-022

The acquisition of a magnetic resonance imaging (MRI) unit for the performance of inpatient and outpatient diagnostic imaging procedures. The new unit will be a 1.5T wide bore system and will be housed in an approximate 840 square foot modular building adjacent to the imaging department of the Williamson Medical Center.
\$ 2,253,660.00

NAME AND ADDRESS	DESCRIPTION
<p>Johnson City Eye Surgery Center, LLC 110 Med Tech Park Johnson City (Washington Co.), TN 37601 Herby Pierce – (423)—92902111 CN0104-023</p>	<p>The establishment of a freestanding ambulatory surgical treatment center (ASTC) limited to comprehensive ophthalmologic surgery services at 110 Med Tech Parkway in Johnson City, Washington County, Tennessee. \$ 1,890,250.00</p>
<p>Hendersonville Medical Center 355 New Shackle Island Road Hendersonville (Sumner Co.), TN 37075 John Wellborn – (615)—665-2022 CN0104-024</p>	<p>The renovation and expansion of surgery and surgery support areas at Hendersonville Medical Center, 355 New Shackle Island Road, Hendersonville, Sumner County, Tennessee. \$ 13,668,000.00</p>
<p>Tennessee Valley Home Care, Inc. Highway 13, Village Plaza Linden (Perry Co.), TN 37096 Kim Looney – (615)—259-1450 CN0104-025</p>	<p>The addition of eight (8) counties from a sister home health agency to the existing service area of Tennessee Valley Home Care, Inc. The applicant is also requesting approval for the relocation of the parent office from Highway 13, Village Plaza in Linden Perry County, Tennessee to 26W 2nd Street in Parsons, Decatur County, Tennessee. The applicant proposed to reorganize the counties held by three (3) home health agencies into two (2) home health agencies. The additional counties to be added to the service area of Tennessee Valley Home Care, Inc. are Chester, Hardin, Henderson, Lawrence, Madison, Maury, McNairy, and Williamson Counties. \$ 19,500.00</p>
<p>Quality Home Health Care, Inc. d/b/a Homecare Health Services of Northwest TN 117 Hummingbird Circle Camden (Benton Co.), TN 38320 Kim Looney – (615)—259-1450 CN0104-026</p>	<p>The addition of five (5) counties from a sister home health agency to the existing service area of Quality Home Health Care, Inc. d/b/a Homecare Health Services of Northwest Tennessee. The applicant proposes to reorganize the counties held by three (3) home health agencies into two (2) home health agencies. The additional counties to be added to the service area of Quality Home Health Care, Inc. d/b/a Homecare Health Services of Northwest Tennessee are Gibson, Madison, Montgomery, Obion, and Weakley Counties. \$ 19,500.00</p>

NAME AND ADDRESS

DESCRIPTION

Plaza Radiology, LLC d/b/a Chattanooga Imaging East
1710 Gunbarrel Road
Chattanooga (Hamilton Co.), TN 37421
J. Scott McDearman – (423)—756-8400
CN0104-027

The relocation of Chattanooga Imaging East from 1755 Gunbarrel Road to 1710 Gunbarrel Road, Chattanooga, Hamilton County, Tennessee. The project includes the construction of a 15,413 square foot building and the acquisition of a 1.5 Tesla MRI system.
\$ 4,626,196.00

The Bone & Joint Surgery Center, LLC
225 Bedford Way
Franklin (Williamson Co.), TN 37064
William H. West – (615)—259-1450
CN0104-028

The establishment of an ambulatory surgical treatment center and the initiation of outpatient surgery services at 225 Bedford Way, Franklin, Williamson County, Tennessee. The center will consist of approximately 10,000 square feet and will contain two (2) operating rooms.
\$ 3,817,043.00

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 0080 - Department of Agriculture - Division of Animal Industries - Emergency rules regarding the threat of foot and mouth disease, Chapter 0080-2-1 Health Requirements For Admission And Transportation Of Livestock And Poultry, 5 T.A.R. (May 2001) - Effective April 4, 2001 through September 16, 2001. (04-01)

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PROPOSED RULES

DEPARTMENT OF AGRICULTURE - 0080 REGULATORY SERVICES DIVISION

CHAPTER 0080-5-10 COMMERCIAL FERTILIZERS REGULATIONS

Presented herein are proposed amendments of the Tennessee Department of Agriculture submitted pursuant to T.C.A. 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Agriculture 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 Lou Wallace Library, Department of Agriculture, attn; Patricia Clark, General Counsel, located at 440 Hogan Road, Nashville, Tennessee, and in the Department of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue, Nashville, TN 37243-0307, 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: Patricia Clark, General Counsel, Tennessee Department of Agriculture, P.O. Box 40627, Nashville, TN 37204, or by phone at 615-837-5093.

The text of the proposed amendment is as follows:

AMENDMENT

0080-5-10-.09 Tonnage Reports and Inspection Fees is amended by deleting the word “monthly” and replacing such with the words “quarterly (ending on the last day of March, June, September and December) and submitted” so that as amended the rule shall read:

0080-5-10-.09 TONNAGE REPORTS AND INSPECTION FEES. Each distributor and registrant shall be furnished forms by the Commissioner which will set forth a format whereby codes (for fertilizer materials, counties, manufacturers, etc.) are to be used wherever applicable. Each distributor and registrant shall report in summary form the amount (tons or fractions thereof) of each grade of fertilizer sold, the county in which the fertilizer was distributed (bag, bulk, liquid, or other forms), and whether the fertilizer was for farm or non-farm use. This summary report shall further be used as a basis for the payment of inspection fees and this report along with the inspection fees shall be due quarterly (ending on the last day of March, June, September and December) and submitted by the 15th day of month immediately following. This report may be supplemented by a computerized summary upon approval by the Commissioner or his agent if that computerized summary contains all of the required data in the proper sequence.

Authority: T.C.A. §43-11-113.

The proposed rules set out herein were properly filed in the Department of State on the 24th day of May, 2001, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2001. (05-16)

DEPARTMENT OF AGRICULTURE - 0080
DIVISION OF REGULATORY SERVICES

CHAPTER 0080-6-22
BOLL WEEVIL ERADICATION

Presented herein are proposed amendments of the Tennessee Department of Agriculture submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Department of Agriculture to promulgate these amendments 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 Commissioner of Agriculture's office located in the Moss Building at Ellington Agricultural Center, 440 Hogan Road, Nashville, Tennessee 37220, and in the Department of State, Administrative Procedures Division, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments, contact Boyd Barker, Boll Weevil Eradication Program, Ellington Agricultural Center, Box 40627, Nashville, Tennessee 37204, (615) 837-5338.

The text of the proposed amendments is as follows:

AMENDMENTS

0080-6-22-.02 Definitions is amended by deleting the current rule in its entirety and substituting the following language so that the amended rule shall read:

0080-6-22-.02 DEFINITIONS. For the purpose of this Chapter, the following definitions shall apply.

- (1) APHIS – United States Department of Agriculture, Animal and Plant Health Inspection Service.
- (2) Boll Weevil – *Anthonomus grandis* Boheman in any stage of development.
- (3) Certificate – A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils. Such articles may be moved to any destination.
- (4) Certified Cotton Growers' Organization - The Tennessee Boll Weevil Eradication Foundation, Inc., as certified by the Commissioner for the purpose of entering into agreements with the state of Tennessee, other states, the federal government and other parties as may be necessary to carry out the boll weevil eradication program in the state of Tennessee.
- (5) Commissioner – The Commissioner of Agriculture or his designated representative.
- (6) Compliance Agreement – A written agreement between the Department of Agriculture and any person engaged in growing, dealing in, or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.
- (7) Department – The Tennessee Department of Agriculture.

- (8) Elimination Area – That portion of Tennessee where eradication of the boll weevil is undertaken as an objective.
- (9) FSA – United States Department of Agriculture, Farm Service Agency.
- (10) Foundation – The Tennessee Boll Weevil Eradication Foundation, Inc.
- (11) Gin Trash – All material produced during the cleaning and ginning of cotton seed, bollies or snapped cotton except lint, cottonseed or gin waste.
- (12) Grower – Any person who is engaged in and has an economic risk in the business of producing or causing to be produced cotton for market.
- (13) Infested – Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
- (14) Non-Commercial Cotton – Cotton intended for purposes other than processing.
- (15) Permit – A document issued or authorized by the Commissioner to provide for the movement of a regulated article to a restricted destination for limited handling, utilization or processing.
- (16) Person – Any individual, corporation, company, society, association or other business entity.
- (17) Regulated Area – Any county, parish, township, city or other civil division or part thereof in any state or territory listed in this Chapter as being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the boll weevil.
- (18) Seed Cotton – Cotton as it comes from the field prior to ginning.
- (19) Used Cotton Equipment – Any cotton equipment previously used to harvest, strip, transport or process cotton.
- (20) Waiver – A written authorization which exempts an individual from compliance with one or more specific requirements of this Chapter.

Authority: *T.C.A. §§ 43-6-406 and 43-6-409.*

0080-6-22-.05 Elimination Area, is amended by deleting the current rule in its entirety and substituting the following language so that the amended rule shall read:

0080-6-22-.05 ELIMINATION AREAS.

- (1) The elimination areas in Tennessee are as follows:
 - (a) Middle Tennessee Region: All counties which lie east of the Tennessee River in what are generally known as Middle and East Tennessee, except the portion of Hardin County that lies east of the Tennessee River.
 - (b) West Tennessee Region 1:
 - 1. Fayette, Hardeman, Hardin, McNairy, Shelby and Tipton counties in their entirety.

2. The portion of Haywood County that lies south of the Hatchie River.
 3. The portion of Chester County that lies south of Tennessee Highway 100.
- (c) West Tennessee Region 2:
1. Benton, Carroll, Crockett, Decatur, Dyer, Gibson, Henderson, Lauderdale and Madison Counties in their entirety.
 2. The portion of Haywood County that lies north of the Hatchie River.
 3. The portion of Chester County that lies north of Tennessee Highway 100.
- (d) West Tennessee Region 3: Henry, Lake, Obion and Weakley Counties in their entirety.

Authority: T.C.A. §§ 43-6-406 and 43-6-409.

0080-6-22-.11 Reporting and Location of Cotton Acreage, is amended by deleting the current rule in its entirety and substituting the following language so that the amended rule shall read:

0080-6-22-.11 REPORTING AND LOCATION OF COTTON ACREAGE.

- (1) All growers in an elimination area shall complete a cotton acreage report showing planting intentions, noting the location and acreage of all cotton fields by a date recommended by the Foundation and established by the Commissioner. All growers shall complete the intended cotton acreage report at the local FSA office servicing each county in which they produce cotton. Such reports shall be filed for each year of participation in the program. Growers who fail to complete this report by the established date shall be assessed a \$5.00 per acre penalty.
- (2) All growers in an elimination area shall complete a cotton acreage report showing actual FSA certified acreage noting the location of all cotton fields by a date recommended by the Foundation and established by the Commissioner. All growers shall complete the certified cotton acreage report at the local FSA office servicing each county in which they produce cotton. Such reports shall be filed for each year of participation in the program. Growers who fail to complete and file this report by the established date shall be assessed a \$5.00 per acre penalty.
- (3) Notification of the dates established for reporting of planting intentions and actual FSA certified cotton acreage shall be given to growers via correspondence from the Department prior to April 15 each year.
- (4) Non-commercial cotton shall not be planted in an elimination area without a waiver issued in writing by the Commissioner. Application for a waiver shall be submitted in writing and the Commissioner's decision to grant or deny the waiver shall be based on the following:
 - (a) Location of growing area,
 - (b) Pest conditions in the growing area,
 - (c) Size of the growing area,
 - (d) Accessibility of the growing area,

- (e) Any stipulation set forth in a compliance agreement between the applicant and the Commission that are necessary for the effectuation of the program.

Authority: T.C.A. §§ 43-6-406 and 43-6-409.

0080-6-22-.12 Program Participation, Fee Payment, Penalties and Credits, is amended by deleting the current rule in its entirety and substituting the following language so that the amended rule shall read:

0080-6-22-.12 PROGRAM PARTICIPATION, FEE PAYMENT, PENALTIES AND CREDITS

- (1) Upon passage of a grower referendum conducted under the provisions of T.C.A. 43-6-423, all cotton growers in an elimination area as set out in 0080-6-22-.05 shall be required to participate in the boll weevil eradication program and pay an assessment as recommended by the Foundation and established by the Commissioner.
- (2) Assessment rates recommended by the Foundation and established by the Commissioner shall not exceed the maximum rate authorized by the most recent referendum. The assessment rate and payment date is dependent upon the availability of allocated funding. Therefore, notification will be given to growers via correspondence from the Department at the earliest practical date, after the amount of allocated funding is known. All payments made by the grower shall be submitted to the local FSA and made payable to the Tennessee Boll Weevil Eradication Foundation, Inc.
- (3) Any grower in an elimination area whose FSA measured acreage exceeds the acreage reported by the grower on the intended or certified cotton acreage reports by more than 10 percent shall be assessed a penalty fee of \$5.00 per acre on that acreage in excess of the reported acreage. Any grower whose FSA measured acreage exceeds the reported planting intentions by more than 10 percent due to emergency or hardship may apply for a waiver. Any grower applying for a waiver shall make application in writing to the Commissioner stating the conditions under which he requests the waiver. The Commissioner will make all decision concerning a waiver of all or part of this requirement. Notification will be given to the grower within two weeks after receipt of such application. The Commissioner shall base his decision upon the following:
 - (a) Meteorological conditions,
 - (b) Economic hardship,
 - (c) Any other uncontrollable destructive forces.
- (4) Failure to pay all assessments on or before the deadlines established by the Commissioner for the current growing season shall result in a late payment penalty of \$5.00 per acre. Failure by a grower to pay all program costs by the deadlines established by the Commissioner is a violation of this rule.
- (5) The Commissioner shall have a lien for the payment of assessments which shall be of equal dignity with liens for taxes in favor of the State.
- (6) At such times as are profitable to the boll weevil eradication program, the Foundation may recommend credits for early cotton stalk destruction. Such credits, if approved by the Commissioner, shall be applied to the subsequent year's assessment. In order to claim such credits:
 - (a) The grower must complete a stalk destruction verification form and submit a copy to the local FSA office in the county where the cotton was produced.

- (b) Stalk destruction must be verified by an authorized representative of the Southeastern Boll Weevil Eradication Foundation, Inc.
- (c) The stalk destruction verification form must be received at the Department no later than December 1 immediately following the early stalk destruction.

Authority: T.C.A. §§ 43-6-406 and 43-6-409.

0080-6-22-.14 Cotton Stalk Destruction, is amended by deleting the current rule in its entirety and substituting the following language so that the amended rule shall read:

0080-6-22-.14 COTTON STALK DESTRUCTION

- (1) All growers in the elimination areas are required to destroy cotton stalks in every field location planted to cotton on or before December 31 of each year. Such cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks.
- (2) In fields with cotton stalks left standing after December 31, the Commissioner shall have authority to hire the destruction of standing stalks and assess the grower for actual costs of such destruction. Failure to pay an assessment for crop destruction shall result in a late payment penalty of \$5.00 per acre.
- (3) Any grower who cannot destroy cotton stalks before December 31 due to emergency or hardship conditions may apply for a waiver. Any grower seeking a waiver shall make application in writing to the Commissioner stating the conditions under which he requests such a waiver. The decision of whether or not to waive this requirement shall be made by the Commissioner and notification given to the grower within two weeks after receipt of such application. The Commissioner shall base his decision on the following:
 - (a) Meteorological conditions,
 - (b) Economic conditions,
 - (c) Any other uncontrollable destructive forces.

Authority: T.C.A. §§ 43-6-406 and 43-6-409.

The proposed rules set out herein were properly filed in the Department of State on the 16th day of May, 2001, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2001. (05-08)

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800
DIVISION OF EMPLOYMENT SECURITY

Presented herein is a summary of the proposed changes to the Employment Security Law Rules submitted by the Department of Labor and Workforce Development, Division of Employment Security, pursuant to T.C.A. 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development, Division of Employment Security, 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 rules are published.

The proposed 2000 Employment Security Rules replace the former Rules in their entirety. The changes to the Employment Security Rules were made because of changes to the Employment Security Law, clerical changes in names and references resulting from the merging of the Department of Employment Security and the Department of Labor into the new Department of Labor and Workforce Development, changes in the administration of the unemployment insurance program due to technology, vague language in the Rules, minor clerical errors and minor changes to clarify and simplify administrative processes. A brief summary of the changes made by the 2000 proposed Rules follows.

CHAPTER 0560-1-1
UNEMPLOYMENT INSURANCE BENEFITS

SUMMARY

This chapter contains the rules for unemployment benefit eligibility, including partial unemployment and interstate claims.

Rule 0560-1-1-.02 was changed to provide that the administrator can waive the requirement that an employer must provide each separated employee with a Separation Notice, if the employer has arranged with the department to submit verification of the date of Separation and reason for separation via an electronically transmitted method, a Mass Separation Notice or a Mail-in Claim. This change was made to agree with department policy. Submitting information electronically saves the employer and the department time and administrative costs.

Rules 0560-1-1-.03, 0560-1-1-.07 and 0560-1-1-.08 were changed to provide that employers can file claims for partial unemployment by diskette or other electronic means. This change was made to agree with department policy. Submitting information electronically saves the employer and the department time and administrative costs.

Rule 0560-1-1-.19(1) was changed to provide that appeals hearings can be conducted by telephone. This change was made to agree with department policy. Telephone hearings are more convenient when parties are far apart or have other circumstances which make it hard for an interested party to attend.

Rule 0560-1-1-.19(2) was also changed to provide that when separate hearings are held, a transcript or recording of the testimony, instead of just a transcript, will be mailed to the absent party. This change was made to agree with department policy.

Rule 0560-1-1-.20(2)(b) was changed to clarify the meaning of "interstate claimant" and "commuter". The previous language was confusing as written.

Rule 0560-1-1-.20(4)(d) pertaining to benefit credits for interstate claimants, was repealed because this Rule was redundant to Rule 0560-1-1-.20(4)©.

Rule 0560-1-1-.20(5)© was changed to clarify that interstate claims may be filed by telephone. This change was made to agree with department policy which allows interstate claims to be taken by telephone for the convenience of the claimant.

Rule 0560-1-1-.21 was changed to clarify that Rule 0560-1-1-.20 would apply to interstate benefit claims taken in and for Canada. The current language simply said “this regulation” which is confusing.

Rule 0560-1-1.26(10) was repealed because it was redundant with the other subsections of Rule 0560-1-1-.26.

All other changes to Chapter 0560-1-1 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999.

CHAPTER 0560-2-1 PREMIUMS

This chapter contains the rules for unemployment premium and reimbursement collections.

All changes to Chapter 0560-2-1 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999, and changes in law references made to agree with changes made by the Tennessee Codes Commission in 1999.

CHAPTER 0560-2-2 EMPLOYMENT AND SERVICES

This chapter defines domestic service for unemployment insurance coverage purposes.

Rule 0560-2-2-.02 was repealed to delete redundant language found in Tennessee Code Annotated 50-7-207(b)(8).

CHAPTER 0560-2-3 EMPLOYER

This chapter contains the rules for employers regarding account number, coverage, distribution of materials, posting of notices and records to be kept.

Rule 0560-2-3-.10(7)(a) was changed to provide that employers can report wage information by electronic transmission, as well as by paper forms or magnetic media. This change was made to agree with department policy. Submitting information electronically saves the employer and the department time and administrative costs.

Rules 0560-2-3-.11(3)(c)(2) and Rule 0560-2-3-.11(5) pertain to the information the worker must furnish the employer if the worker does not have his Social Security Number. These changes clarify that giving information showing the worker’s race or ethnic description is optional.

Rule 0560-2-3-.12(5)(a) and Rule 0560-2-3-.12(5)(b) are housekeeping amendments to clarify that the “requests” referenced are requests for “a total or partial transfer of taxable payroll, benefit and premium experience.”

All other changes to Chapter 0560-2-3 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999, and changes in law references made to agree with changes made by the Tennessee Codes Commission in 1999.

**CHAPTER 0560-2-4
WAGES**

There were no changes to this Chapter.

**CHAPTER 0560-3-1
BOARD OF REVIEW
MEETINGS**

There were no changes to this Chapter.

**CHAPTER 0560-3-2
BOARD OF REVIEW AND APPEALS TRIBUNAL
APPEALS TO THE APPEALS TRIBUNAL**

This chapter provides for the presentation and determination of appeals, the disqualification of referees and the adjournment of appeals hearings.

Rule 0560-3-2-.03(1) was repealed to delete redundant language, which is found in Tennessee Code Annotated 50-7-304 concerning an Appeals Referee's decision.

Rule 0560-3-2-.04(2)(c)(2) was repealed to delete redundant language, which is found in Tennessee Code Annotated 50-7-304 concerning a request for a postponement.

Rule 0560-3-2-.04(2)(c)(3) was amended to delete redundant language, which is found in Tennessee Code Annotated 50-7-304 providing that a request for a postponement must be made in writing.

Rule 0560-3-2-.04(2)(d) was repealed to delete redundant language, which is found in Tennessee Code Annotated 50-7-304 concerning giving interested parties a notice of the hearing.

All other changes to Chapter 0560-3-1 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999.

**CHAPTER 0560-3-3
APPEALS TO BOARD OF REVIEW**

This chapter pertains to the board of review.

Rule 0560-3-3-.01(7) was repealed as a housekeeping change to remove a redundant provision. Tennessee Code Annotated 50-7-304(c)(1) and (e)(1) require the Board of Review to mail or deliver written a notification of its decision to the parties.

Rule 0560-3-3-.01(8) was repealed as a housekeeping change to remove a redundant provision. Tennessee Code Annotated 50-7-304(e)(1) requires that the Board of Review permit parties to appeal. Rules 0560-3-3-.01(3) and (4) contain more explicit provisions about requiring the Board to permit the parties to oppose or support decisions of the Appeals Tribunal.

Rule 0560-3-3-.04(5) was repealed as a housekeeping change to remove a redundant provision. Tennessee Code Annotated 50-7-304(c)(1) and (e)(1) require the Board of Review to mail or deliver written a notification of its decision to the parties.

All other changes to Chapter 0560-3-1 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999.

CHAPTER 0560-3-4
GENERAL REGULATIONS FOR BOTH APPEAL STAGES

This chapter pertains to rules that govern both the appeals tribunal and the board of review including order of proceedings, witnesses, subpoenas and evidence.

Rule 0560-3-4-.06(4), which provided that the appeals tribunal and the board of review shall keep copies of decisions on file for three years, was repealed because this Rule was redundant to Rule 0560-3-4-.09(1) as amended.

Rule 0560-3-4-.08(1) providing that requests for continuances of hearings should be made as soon as reasonably practicable was amended to clarify that this applied except in the event of an unforeseen emergency.

Rule 0560-3-4-.09(1) was amended to clarify that the appeals tribunal and the board of review shall keep copies of decisions on file for three years.

All other changes to Chapter 0560-3-1 were housekeeping changes made to agree with merger of the Tennessee Department of Employment Security and the Tennessee Department of Labor into the Tennessee Department of Labor and Workforce Development, as provided by the Tennessee Workforce Investment Act of 1999, Public Chapter 520 as signed by the Governor on June 17, 1999.

The proposed rules set out herein were properly filed in the Department of State on the 22nd day of May, 2001, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 28th day of September, 2001. (05-14)

**DEPARTMENT OF SAFETY - 1340
ADMINISTRATIVE DIVISION
FINANCIAL RESPONSIBILITY SECTION**

**CHAPTER 1340—2—5
DRIVER LICENSE REINSTATEMENT FEE INSTALLMENT PAYMENT PLAN**

Presented herein are proposed rules of the Administrative Division of the Department of Safety submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Administrative Division of the Department of Safety 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 with the Department of Safety Legal Services Division, 1150 Foster Avenue, Nashville, Tennessee 37249-1000, and in the Department of State, 5th Floor, James K. Polk State Office Building, Sixth and Deaderick, Nashville, Tennessee 37219-0130, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For complete copies of the entire text of the proposed rules, please contact Patricia S. Wall, Staff Attorney, Legal Services Division, Department of Safety, 1150 Foster Avenue, Nashville, Tennessee 37249-1000, and telephone (615) 251-5296.

PROPOSED RULES

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<p>1340-2-5-.01 Scope and Construction</p> <p>1340-2-5-.02 Persons Eligible To Enter Into The Driver License Reinstatement Fee Installment Payment Plan</p> <p>1340-2-5-.03 Duration Of The Driver License Installment Payment Plan.</p> <p>1340-2-5-.04 Minimum Payment</p> <p>1340-2-5-.05 Method Of Payment</p> <p>1340-2-5-.06 Failure To Comply With The Reinstatement Fee Installment Payment Plan</p>	<p>1340-2-5-.07 Persons Not Eligible To Enter The Reinstatement Fee Installment Payment Plan</p> <p>1340-2-5-.08 Suspensions Of License For Failure To Comply With The Reinstatement Fee Installment Payment Plan</p> <p>1340-2-5-.09 Administrative Hearings</p> <p>1340-2-5-.10 Administration Fee</p>
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1340-2—5-.01 SCOPE AND CONSTRUCTION.

Pursuant to T.C.A. § 55-12-129, the Tennessee Department of Safety hereby adopts the following rules to be used in the administration of the driver license reinstatement fee installment plan. The rule is adopted to establish a uniform system for administering a payment program whereby a person whose driving privileges are revoked, suspended, or cancelled, may pay the reinstatement fee by entering into the driver license reinstatement fee installment payment plan.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.02 PERSONS ELIGIBLE TO ENTER INTO THE DRIVER LICENSE REINSTATEMENT FEE INSTALLMENT PAYMENT PLAN.

Any person whose reinstatement fee totals more than four hundred dollars (\$400) may choose to enter into the driver license reinstatement installment payment plan upon complying with all other requirements of law for reinstatement of driving privileges.

- (a) A person may petition and make application to the department on a form prescribed by the commissioner for participation in the driver license reinstatement fee installation payment plan.
- (b) The department will determine if the person is eligible to participate in the reinstatement fee installment payment plan.
- (c) Persons eligible under this provision will be required to enter into a payment plan agreement agreeing to comply with the provisions of this rule.
- (d) Persons entering the driver license reinstatement fee installation payment plan will be required to meet all other requirements of law for reinstatement of driving privileges.

Authority: T.C.A. §§55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.03 DURATION OF THE DRIVER LICENSE INSTALLMENT PAYMENT PLAN.

Each driver license reinstatement fee installment payment plan shall be established for a period of time not to exceed twenty-four (24) months with payments being made pursuant to Rule No. 1340-2-5-.04.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.04 MINIMUM PAYMENT

- (1) Each person entering the payment plan will make an initial minimum payment of at least four hundred dollars (\$400.00) at the time of reinstatement of the driver license.
- (2) The person will be required to make minimum quarterly payments of three hundred dollars (\$300.00).
- (3) The remainder of the reinstatement fee must be paid within the established payment plan.
- (4) When the remaining balance is less than three hundred dollar (\$300.00), the balance will be paid at the end of the next quarter.
- (5) Nothing in this rule will prevent any person from paying the reinstatement fee in full prior to the end of the established payment plan.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.05 METHOD OF PAYMENT

- (1) All payments issued to the department will be by cash, certified check, or money order.
- (2) All payments will be made to the Financial Responsibility reinstatement office.
- (3) Payments will not be accepted at any driver license station.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.06 FAILURE TO COMPLY WITH THE REINSTATEMENT FEE INSTALLMENT PAYMENT PLAN

- (1) Any person who does not comply with a quarterly payment requirement as stated in Rule 1340-2-5-.04 will be sent a proposed notice of suspension. The proposed notice of suspension letter will give the person thirty (30) days from the date of such suspension notice to either pay the required quarterly payment or request an administrative hearing pursuant to Rule 1340-2-5-.09.
- (2) Any person who does not pay the full amount of the reinstatement fee within the established payment plan will be subject to suspension as provided in this rule and T.C.A. § 55-12-129.
- (3) Any person who fails to comply with the established payment plan will not be eligible to participate in any such payment plan in the future.
- (4) The department will not refund any paid administrative fee or reinstatement fees made during the established payment plan.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.07 PERSONS NOT ELIGIBLE TO ENTER THE REINSTATEMENT FEE INSTALLMENT PAYMENT PLAN

- (1) Any person whose reinstatement fee totals four hundred dollars (\$400.00) or less will not be eligible to enter the reinstatement fee installment payment plan.
- (2) Any person who, during such a payment plan period, is again revoked, suspended, or cancelled may not add the reinstatement fees for the current revocation, suspension or cancellations to the plan. When such person has successfully completed the current payment plan, a new payment plan may then be entered subject to the provisions of this rule.

Authority: T.C.A. §§ 55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.08 SUSPENSIONS OF LICENSE FOR FAILURE TO COMPLY WITH THE REINSTATEMENT FEE INSTALLMENT PAYMENT PLAN.

- (1) The department, upon such person's failure to comply with the department's payment plan, shall issue, by regular mail to the person's last known address, a notice of intent to suspend the license of such person in thirty (30) days. For the purposes of this subdivision, "failure to comply" means failure to pay any installment payment on the date due.
- (2) Any person who fails to make the minimum quarterly payment as established will be sent a driver license suspension notice.
 - (a) The suspension notice will advise the person that they have not complied with the reinstatement fee installment payment plan and the amount of reinstatement fee that is due for that particular quarter.
 - (b) The suspension notice will advise the person that they have thirty (30) days to either send in the required quarterly payment or request an administrative hearing, pursuant to Rule No. 1340-2-5-.09. The request for an administrative hearing will not extend the thirty- (30) day period to send in the quarterly payment.

- (c) The notice will also advise the person that should the person decide to send in the required quarterly payment, the mailing of such payment must be postmarked within thirty (30) days from the date of the suspension notice letter sent to such person.
- (d) The notice shall also advise the person that if the person does not elect to pay the quarterly payment or request an administrative hearing, then such person's driver license and privileges would be suspended and full payment of the reinstatement fee would be required prior to reinstatement of any driver license.
- (e) The notice will be sent to the last known address of the person according to the department of safety driver license database.
- (f) The notice shall also advise the person that if the driver license is suspended, the person's driver license status would revert back to the original driver license status prior to entering the reinstatement fee installment payment plan.

Authority: T.C.A. §§55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.09 ADMINISTRATIVE HEARINGS.

- (1) Upon request of such person within thirty (30) days of the date of such notification, the department shall provide the person an opportunity for a hearing to show that such person has, in fact, complied with the department's payment plan. Failure to make such request within thirty (30) days of the date of such notification shall, without exception, constitute a waiver of such right.
- (2) Upon waiver of a hearing or determination of default at the hearing, the department shall suspend the person's driver license pending full payment of all fees authorized by this section.
- (3) The Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, applies to the extent it is consistent with proceedings under Tennessee Code Annotated § 55-12-129.

Authority: T.C.A. §§55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

1340-2-5-.10 ADMINISTRATION FEE.

Upon entering the reinstatement fee installment payment plan, the person will be required to pay a twenty-five dollar (\$25.00) administration fee to defray costs and expenses for the operation of this program.

Authority: T.C.A. §§55-50-202 and 55-12-129 as amended by Public Chapter 43 of the Public Acts of 2001.

The proposed rules set out herein were properly filed in the Department of State on the 30th day of May, 2001, 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 28th day of September, 2001. (05-22)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 1200 - Department of Health, Tennessee Cancer Registry, Public Necessity Rules implementing the program operated by the Cancer Reporting System administered by the Tennessee Cancer Registry of the Tennessee Department of Health, chapter Chapter 1200-7-2 Cancer Reporting System, 3 T.A.R. (March 2001) - Filed February 22, 2001; effective through August 6, 2001. (02-10)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780 **DIVISION OF INSURANCE**

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

Pursuant to the Gramm-Leach-Bliley Act (Pub. Law No. 106-102) and 2001 Tenn. Pub. Acts ch. 107, certain changes are required to be made to state law regarding the privacy of nonpublic personal information. Specifically, 2001 Tenn. Pub. Acts ch. 107 prohibits the disclosure by certain persons of nonpublic personal information in violation of Title V of the Gramm-Leach-Bliley Act (Pub. Law No. 106-102), and prohibits violations of rules promulgated pursuant to 2001 Tenn. Pub. Acts Ch. 107. The legislation mandated that the Department of Commerce and Insurance shall have authority to adopt public necessity rules as determined to be necessary to effectuate the provisions of section 1 of 2001 Tenn. Pub. Acts ch. 107 or as necessary to adopt rules by July 1, 2001. By virtue of the passage of 2001 Tenn. Pub. Acts ch. 107, the Department of Commerce and Insurance is required to implement rules within a prescribed period of time which precludes utilization of rulemaking procedures described in Tenn. Code Ann., Title 4, Chapter 5, for the promulgation of permanent rules.

For a copy of the entire text of this notice contact: G. Everett Sinor, Jr., Staff Attorney, 312 Eighth Avenue North, Twenty-Fifth Floor, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243, Department of Commerce and Insurance, and (615) 741-2199.

Anne B. Pope

INFORMATIVE SUMMARY

Department of Commerce and Insurance has filed public necessity rules respecting the privacy of nonpublic personal information, pursuant to 2001 Tenn. Pub. Acts ch. 107, § 1.

0780-1-72-.01	Authority	0780-1-72-.15	Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information for Processing and Servicing Transactions
0780-1-72-.02	Purpose and Scope		
0780-1-72-.03	Rule of Construction		
0780-1-72-.04	Definitions	0780-1-72-.16	Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Information
0780-1-72-.05	Initial Privacy Notice to Consumers Required		
0780-1-72-.06	Annual Privacy Notice to Customers Required		
0780-1-72-.07	Information to be Included in Privacy Notices	0780-1-72-.17	[Reserved]
0780-1-72-.08	Form of Opt Out Notice to Consumers and Opt Out Methods	0780-1-72-.18	[Reserved]
		0780-1-72-.19	[Reserved]
0780-1-72-.09	Revised Privacy Notices	0780-1-72-.20	[Reserved]
0780-1-72-.10	Delivery	0780-1-72-.21	[Reserved]
0780-1-72-.11	Limitation on Disclosure of Nonpublic Personal Information to Nonaffiliated Third Parties	0780-1-72-.22	Protection of Fair Credit Reporting Act
		0780-1-72-.23	Nondiscrimination
0780-1-72-.12	Limits on Redisclosure and Reuse of Nonpublic Personal Information	0780-1-72-.24	Violation
		0780-1-72-.25	Severability
0780-1-72-.13	Limits on Sharing Account Number Information for Marketing Purposes	0780-1-72-.26	Effective Date
		Appendix A	Sample Clauses
0780-1-72-.14	Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Information for Service Providers and Joint Marketing		

For a copy of the entire text of this notice of rulemaking hearing, contact: G. Everett Sinor, Jr., Staff Attorney, 312 Eighth Avenue North, Twenty-Fifth Floor, William R. Snodgrass Tennessee Tower, Nashville, Tennessee 37243, Department of Commerce and Insurance, and (615) 741-2199.

The public necessity rules set out herein were properly filed in the Department of State on the 14th day of May, 2001, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 19th day of November, 2001. (05-21)

RULEMAKING HEARINGS

DEPARTMENT OF CHILDREN'S SERVICES - 0250 SOCIAL SERVICES DIVISION

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. § 37-5-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in Conference Room A on the 7th floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville TN 37243 at 1:30 p.m. on the 9th day of August, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Children's Services to discuss any auxiliary aids of services needed to facilitate 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 Children's Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Children's Services ADA Coordinator, Maggie Winbush, Personnel Analyst 3, 7th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville TN 37243; (615) 741-8278.

For a copy of this notice of rulemaking hearing, contact: Elizabeth S. Black, 8th Floor, Cordell Hull Building, 436 6th Avenue North, Nashville TN 37243; (615) 532-5636.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0250-7-14 RELATIVE CAREGIVER PROGRAM

NEW RULES

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0250-7-14-.01 PURPOSE OF CHAPTER

- (1) The purpose of this chapter is to provide, in compliance with Tennessee Code Annotated § 71-3-136, policies and procedures for the Relative Caregiver Pilot Programs.

Authority: T.C.A. §71-3-136.

0250-7-14-.02 DEFINITIONS FOR PURPOSES OF THIS CHAPTER

- (1) Department - Refers to the Department of Children's Services (DCS).

- (2) Relative Caregiver Program – Refers to the program defined in TCA § 71-3-136. DCS operates the Relative Caregiver Program (RCP).
- (3) Temporary Legal Custody – Refers to a legal relationship awarded by an appropriate court between the relative caregiver and child(ren).
- (4) Legal Custodian – Refers to the legal name a relative caregiver may be given after being awarded the temporary legal custody of related child(ren).
- (5) Relative Caregiver – Refers to an individual within a first, second, or third degree of relationship to the parent, or the step-parent of the child. This child is under his or her primary care and control. Relationship may be established by blood, marriage, or adoption.
- (6) Kinship Family – Refers to all of the members of the relative caregiver’s household.
- (7) Household Income – Refers to the income guideline for participation in the Relative Caregiver Program.
- (8) Size of Family Unit – Refers to the number of persons eligible for counting when determining the baseline household income amount listed in the Federal Poverty Guidelines. The relative caregiver, the spouse relative caregiver and all of the children in the home should be counted to determine the size of the family unit. These children may or may not be eligible for the Relative Caregiver Program.
- (9) Eligible Children – Refers to the children under the age of 19 who meet eligibility criteria to participate in the Relative Caregiver Program.
- (10) Family Needs Scale – Refers to the standardized, likert scale used for measuring family need during client intake.
- (11) Family Needs Assessment – Refers to the needs assessment tool used to assess family need during client intake.
- (12) Service Plan – Refers to the plan developed as a result of the assessment of family need and outlining the services which will be made available to the child(ren) and the relative caregiver(s).
- (13) Lead Agency – Refers to the community-based agencies selected by DCS to create and operate Relative Caregiver Programs.
- (14) Case File – Refers to the file maintained by the Lead Agency on each participating family in the Relative Caregiver Program.
- (15) Program Financial Oversight Committee – Refers to the committee organized by each Relative Caregiver Program to ensure that financial aid is provided to kinship families in an equitable, lawful, compliant and respectful manner.

Authority: T.C.A. §71-3-136, § 37-1-140

0250-7-14-.03 PROCEDURES FOR THE RELATIVE CAREGIVER PROGRAM

- (1) Eligibility Guidelines for Participation in Relative Caregiver Program.
 - (a) The child(ren) must be in the temporary legal custody of the relative caregiver.
 - (b) The relative caregiver must be willing to take part in a needs assessment.

- (c) The relative caregiver must agree to accept needed support services through the Relative Caregiver Program.
 - (d) The caregiver must be able to provide a safe home for related children and be committed to providing that home as long as is necessary and appropriate.
 - (e) The relative caregiver must be within the first, second, or third degree of relationship of the parent or stepparent of the child. The caregiver may be related through blood, marriage or adoption. Examples include: (1) grandparents, (2) great-grandparents, (3) aunts and uncles, (4) siblings, (5) great-aunts and great-uncles, (6) first cousins, or (7) great-great-grandparents.
 - (f) The relative caregiver shall not have a total adjusted household income that exceeds more than twice the current Federal Poverty Guideline based on the size of the family unit. Household income will be determined by including the income of the primary relative caregiver, the spouse of the primary relative caregiver, and all eligible children.
 - (g) All families served through the Relative Caregiver Program must live within the county or counties identified in the proposal and contract.
- (2) Guidelines for Client Intake and Service Plan Development
- (a) Families may be referred to the Relative Caregiver Program by DCS, hospitals, Department of Human Services (DHS), community mental health services, schools, juvenile or family courts, Community Services Agency, private agencies, as well as other sources. Self-referrals are also allowable.
 - (b) Each Relative Caregiver Program is responsible for determining eligibility for participation. Program eligibility must be redetermined on an annual basis. The program must work to ensure that financial aid and services are provided to kinship families in an equitable, lawful, compliant and respectful manner. When families are determined ineligible, appropriate referrals for service should be made to ensure safety and permanence for children in relative care. DCS or the Department of Finance and Administration will monitor Relative Caregiver Program determination of eligibility through on-site, Case File reviews every other month. Any reimbursement made to the Grantee on behalf of a participant that is later deemed to be ineligible will be recovered through the next monthly billing. If there are no more billings the Grantee shall be notified of the overpayment and asked to refund the money.
 - (c) Because collaboration is encouraged, each Relative Caregiver Program should develop a clear client intake and referral process with the Department of Children's Services and the local juvenile or family court. Additional children and families seeking financial aid and services should receive this support as permitted by funding.
 - (d) The RCP staff and the family should collaboratively complete a Family Needs Scale, a Family Needs Assessment, and develop a service plan.
 - (e) In compliance with TCA § 37-1-403, if the Relative Caregiver Program staff believe it is not in the best interests of the child(ren) to remain in the home of the relative caregiver, appropriate steps must be taken to ensure the safety of the child(ren).
 - (f) Once a service plan has been developed, the RCP should help the family achieve the goals outlined in the agreed upon service plan.
 - (g) Each program should develop and document a clear plan for client intake and service plan delivery.

- (h) The Family Needs Scale should be used by each Relative Caregiver Program as a pre-post test measure to assess family need.
 - (i) Programs may provide individual and family counseling, respite care, legal services, financial aid, recreation, homemaker services, transportation, advocacy, support groups, training, mediation, family conferencing, case management, mentoring, child care and children's therapeutic activity groups as needed for eligible kinship families. These services should be made available to eligible kinship families as needed and when they do not duplicate already existing supports and services within the community.
- (3) Guidelines for Service Delivery
- (a) The pilot program lead agencies may authorize service providers through a subcontract to administer services. These subcontracts must be approved by DCS. Minority subcontractors are highly encouraged, as available.
 - (b) Relative caregivers participating in the Relative Caregiver Program must be given an opportunity to provide feedback as to the effectiveness of the service received. This shall include the option to remain anonymous.
 - (c) Each Relative Caregiver Program must have a written procedure for use when relative caregivers are not in agreement with their determination of eligibility. This procedure should be respectful of kinship families and help families understand other services and supports available to them. This procedure must outline a due process and be approved by the Department of Children's Services.
- (4) Guidelines for Personnel
- (a) Each Relative Caregiver Program utilizing volunteers shall have written procedures governing the recruitment, training, supervision, and evaluation of volunteers. Volunteers shall have a written job description, orientation to their duties, and training.
 - (b) Each Relative Caregiver Program must comply with the equal employment opportunity Executive Order 1979-4 and civil rights requirements.
 - (c) Relative Caregiver Program paid or volunteer staff may not solicit or accept gratuities, favors or anything of monetary value from program participants.
 - (d) Relative Caregiver Program paid or volunteer staff may not offer for sale any type of merchandise or service.
 - (e) Relative Caregiver Program paid or volunteer staff may not encourage the acceptance of children and their relative caregiver based on any particular belief or philosophy when determining eligibility.
 - (f) Each Relative Caregiver Program shall employ competent, diverse, culturally, and ethnically appropriate staff when possible to provide and coordinate services in compliance with the contractual agreement between each Relative Caregiver Program and the Department of Children's Services.
 - (g) Each Relative Caregiver Program shall have an up-to-date written organizational chart clearly defining established lines of authority.
 - (h) Each Relative Caregiver Program shall have clearly defined job description for staff.

- (i) A Relative Caregiver Program staff person shall be designated to have the responsibility of ensuring that services are available on a day to day basis according to the contract, governing statutes, and in a manner that best serves children and their relative caregivers.
 - (j) Every Relative Caregiver Program paid or volunteer staff person who enters the home of family caregivers must display proper identification, which is an agency picture identification card.
 - (k) Every Relative Caregiver Program paid or volunteer staff person must have background check identification in the agency's personnel file pursuant to TCA § 37-1-414. This should include fingerprinting and a local background check over the past five (5) years.
 - (l) No Relative Caregiver Program may discriminate against any employee, applicant for employment, or recipient of service. Each program must clearly post signs in English, and other languages as may be appropriate, at agency offices and locations where services are provided, indicating nondiscrimination in hiring, employment practices, and provision of services.
- (5) Guidelines for Data Collection and Monthly Reporting
- (a) Each Relative Caregiver Program must maintain an accurate, confidential and locked record on each participant, which documents participant identifying data, requests for service, and services provided.
 - (b) All Relative Caregiver Program reports and statistics reported require backup documentation. This record keeping must be done on DCS approved forms, contained within the Case File, must be legible and available to DCS.
 - (c) Each Relative Caregiver Program must report program and financial data as required by DCS on a monthly basis.
- (6) Guidelines for the Dissemination of Financial Aid through the Relative Caregiver Program
- (a) Children and their relative caregivers may have special non-recurring needs for financial aid. Meeting these needs will enable families to provide a safe, stable home for their relative child, a home that supports appropriate growth and development and good health. The Relative Caregiver Program will provide financial support to all eligible families with the need for financial aid.
 - 1. Payments are designed to meet short-term needs, crisis situations, or startup costs only. Long-term or ongoing needs may not be met through the Relative Caregiver Program financial aid.
 - 2. Financial aid may be used to purchase a wide range of tangible items, supports, services or other needs.
 - 3. Payments may not be made which would duplicate available existing supports.
 - 4. All financial aid determinations will be based on written requests for assistance submitted by the Relative Caregiver Program staff person to a lead agency designee and based on identified needs. This written request must be contained within the Case File.
 - 5. Each Relative Caregiver Program should develop, utilize and continuously update an inventory of available services and supports in their communities to ensure that Project funds are not used to duplicate existing services.

6. Each Relative Caregiver Program must maintain adequate support documentation to verify contracted and paid for services and expenses incurred.
 7. Monthly stipends or other regular financial assistance are not available to children and their relative caregivers through the Relative Caregiver Program.
 8. Financial aid in the form of direct payments to families or purchases may be made more than once per year and up to four times a year, but may not be used for a service need that exceeds 4 months during the year.
 9. Each Relative Caregiver Program must organize a Financial Oversight Committee to ensure that financial aid is provided to kinship families in an equitable, lawful, compliant and respectful manner.
 - (i) The names of potential Financial Oversight Committee members must be submitted to and approved by the Department of Children's Services. This Financial Oversight Committee should have at least three (3) members, and include at least one lead agency representative and at least one person with expertise in the area of finance.
 - (ii) Financial aid payments do not have to be pre-approved by the Program Financial Oversight Committee, but should be reviewed on a monthly basis to ensure fairness and equity in the dissemination of financial aid as well as compliance with state law and federal regulations.
 - (iii) This Committee should develop procedures for provision of emergency or immediate financial aid.
 - (iv) This Committee must develop appropriate training to ensure that Relative Caregiver Program staff are able to effectively define needed financial aid during the Family Needs Assessment.
 - (v) This Committee must develop an overall plan to ensure kinship families are receiving needed financial aid. This plan must be documented and approved by the Department of Children's Services.
- (7) Guideline for the Provision of Mental Health Counseling
- (a) Mental Health counseling may be provided using a social model. The provision of medical services or the dispensation of medication is not permitted.
- (8) Guidelines for the Training of Relative Caregiver Program Staff
- (a) RCP staff should receive adequate training in the following areas.
 1. Relative Caregiver Program staff should be able to evaluate home safety.
 2. Relative Caregiver Program staff should be able to identify and help relative caregivers understand the physical and mental developmental patterns, emotional and behavioral disorders of children.
 3. Relative Caregiver Program staff should be able to improve the lives of Relative Caregivers.
 4. Relative Caregiver Program staff should be able to observe evidence of prior or current substance abuse by caregivers.

5. Relative Caregiver Program staff should be able to observe the caregivers' physical and mental functioning.
 6. Relative Caregiver Program staff should be able to determine the availability of a supportive extended family system.
 7. Relative Caregiver Program staff should be able to assess caregivers' willingness and ability to provide a safe, permanent home.
 8. Relative Caregiver Program staff should be able to implement service plan recommendations and to meet any special needs of the child(ren) in their home.
 9. Relative Caregiver Program staff should be knowledgeable of available private and public benefits available to kinship families.
 10. Relative Caregiver Program staff must understand the purpose of the program, the role of the Department of Children's Service relative to this program, philosophy, ethics, policies and procedures for the program.
- (b) Records identifying dates of training and topics covered are to be maintained in Relative Caregiver Program Staff personnel file.

Authority: *T.C.A. § 71-3-136, TCA § 37-1-414, Federal Civil Rights Act of 1964, the Rehabilitation Act of 1973, Section 503 and 504, the Vietnam Era Veteran's Readjustment Assistance Act of 1974 (USE Title 38, Section 2012), the Age Discrimination Act of 1975, Section 303 and the Americans with Disabilities Act.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of May, 2001. (05-02)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of July, 2001.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, 1st Fl., Cordell Hull Building 425 5th Ave. North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by adding the following language as new subparagraph (1) (b) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting subparagraphs (2) (b), (2) (c), (4) (c), (6) (a), and by deleting parts (6) (a) 2. and (6) (a) 3., and by deleting subparagraph (6) (c), and substituting instead the following language, so that as amended, the new subparagraphs (1) (b), (2) (b), (2) (c), (4) (c), (6) (a), and the new parts (6) (a) 2. and (6) (a) 3., and the new subparagraph (6) (c) shall read:

- (1) (b) Each registered dental assistant must attend and complete twelve (12) hours of continuing education each calendar year (January 1-December 31) in courses approved by the Board. A minimum of one (1) of the required twelve (12) annual hours must be obtained in the area of chemical dependency education.
- (2) (b) Each dentist, dental hygienist, and registered dental assistant must, on their biennial renewal application, check a box and/or enter signature which indicates attendance and completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
- (2) (c) Each dentist, dental hygienist, and registered dental assistant must retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the calendar year in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
- (4) (c) Each dentist, dental hygienist and registered dental assistant must retain independent documentation of CPR training for a period of three (3) years from the end of the calendar year in which the training is received. Such proof must be produced for inspection and verification, if requested in writing by the Board during its verification process.
- (6) (a) Any dentist, dental hygienist, or registered dental assistant who applies for reactivation of a license must comply with the following:

- (6) (a) 2. If the license has been retired for a period of two (2) years or more, but less than five (5) years, the licensee must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board-approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, and at the sole discretion of the Board or its consultant, when information indicates a cause for concern about continued competency, the licensee may be required to contact one of the approved schools of dentistry/hygiene or an approved dental assisting program/school for an evaluation of current competency before reinstatement will be considered.
- (6) (a) 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, the licensees shall be required to present themselves to one of the approved schools of dentistry/hygiene or an approved dental assisting program/school for an evaluation of current competency before reinstatement will be considered. Compliance with any educational recommendations of the evaluating school or program is required before reinstatement will be considered.
- (6) (c) The dentist, dental hygienist, or registered dental assistant must also submit proof or check a box and/or enter signature on a Board form which indicates current training in CPR issued by a Board approved training organization. The hours required to obtain or maintain CPR training shall not constitute continuing education hours.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-114, and 63-5-115.

Rule 0460-4-.04, Coronal Polishing Certification, is amended by deleting paragraph (6) in its entirety and renumbering the remaining paragraph (7) as paragraph (6).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 14th day of May, 2001. (05-07)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at on July 23, 2001 at the Moscow City Hall, 14075 Highway 57, Moscow, TN 38057 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIALACTION

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Fayette County (24)	
24-508	Chemet Co. Moscow, TN

Statutory Authority: T.C.A. § 68-212-206(e) and § 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st of May 2001. (05-24)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SUPERFUND**

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the Yorkville School, 56 Nebo-Yorkville Road, Yorkville, Tennessee 38389 on July 17, 2001 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-1-13
HAZARDOUS SUBSTANCE SITE REMEDIAL ACTION**

AMENDMENTS

Rule 1200-1-13-.13 List of Inactive Hazardous Substance Sites is amended by adding the following site to the list, such addition being made in a manner so that the entire list remains in numerical order:

Site Number	Site Name
Gibson County (27)	
27-516	P & W Electric Yorkville, TN

Authority: T.C.A. § 68-212-206(e) and § 68-212-215(e).

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of May, 2001. (05-17)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY

There will be a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Underground Injection Chapter 1200-4-6 pursuant to T.C.A. 69-3-105 et seq. This public hearing will also be used to solicit response from the public on the Division's intent of pursuing primary enforcement authority ("primacy") for the Underground Injection Control Program from the Environmental Protection Agency. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated Section 4-5-204 and will take place at the Madison County Agricultural Complex at 309 N. Parkway at Hwy 45 Bypass in Jackson at 2:00 pm CST on the 9th day of July, 2001; in the auditorium of the Fleming Training Center located at 202 Blanton Drive in Murfreesboro at 10:00 am CST on the 17th day of July, 2001; and at the Knox County Health Department Auditorium, 140 Dameron Avenue, 1:00 pm EST in Knoxville on the 24th day of July, 2001. Written comments will be considered if received by close of business August 10, 2001. Written comments should be mailed to the Tennessee Division of Water Supply, 6th Floor L&C Tower, 401 Church Street, Nashville, TN 37243-1549.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than (10) days prior to the scheduled meeting date to allow time for the Department to determine how it may reasonable provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Mr. Isaac Okoreeh-Baah, Division of Real Property Management, 7th Floor, L&C Annex, 401 Church Street, Nashville, TN 37243-0449 whose telephone number is (615) 532-0059.

For a copy of the entire text of this notice of rulemaking hearing, contact:

Scotty Sorrells
 UIC Coordinator
 TN Division of Water Supply
 401 Church Street
 Nashville, TN
 (615) 532-9224

or the nearest office of the Tennessee Division of Water Supply at 1-888-891-8332.

SUBSTANCE OF THE PROPOSED RULES

CHAPTER 1200-4-6
UNDERGROUND INJECTION CONTROL

AMENDMENTS

Paragraph (2) of rule 1200-4-6-.10 is amended by adding subparagraph (c) so that as amended the subparagraph shall read:

- (c) Class I Injection Zone Designation. Class I wells may be operated in areas where the injection zone has been specifically designated for that use. The zone may be so designated provided that:
 - 1. The ground water in the proposed zone has met the following criteria for designation:
 - (i) The ground water in the proposed zone is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical.

- (ii) The ground water in the proposed zone is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
 - (iii) The ground water in the proposed zone is mineral, hydrocarbon or geothermal energy producing, or can be demonstrated by a permit applicant as part of a permit application for a Class II or III operation to contain minerals or hydrocarbons that considering their quantity and location are expected to be commercially producible; or
 - (iv) The ground water in the proposed zone is located over a Class III well mining area subject to subsidence or catastrophic collapse.
2. The total dissolved solids content of the ground water is more than 3,000 mg/l and it is not reasonably expected to supply a public water system.
 3. Concurrence with the Environmental Protection Agency has been reached after a public notice has been issued regarding the proposed Class I injection zone. The public notice shall include a notice to the Environmental Protection Agency. The zone designation shall become final when the Department submits the designation in writing to the EPA Administrator, or an authorized delegatee, and the Administrator or an authorized delegatee has not disapproved the designation within forty five (45) days. Any disapproval by the Administrator shall state the reasons and shall constitute final EPA action for purposes of judicial review.

The notice of rulemaking set out herein was properly filed in the Department of State on the 14th day of May, 2001. (05-06)

**DEPARTMENT OF HEALTH - 1200
BOARD FOR LICENSING HEALTH CARE FACILITIES**

There will be a hearing before the Tennessee Department of Health to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 68-11-202 et seq., and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administration Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room on the ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee 37247-0508 at 9:00 a.m. C.T. on the 17th day of July, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health 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 to allow time for the Department of Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health's ADA Coordinator at 425 Fifth Avenue North, Nashville, Tennessee, Telephone 615-741-7586.

For a copy of this notice of rulemaking hearing, contact: Anita Van Tries, 425 Fifth Avenue North, Nashville, Tennessee 37247-0508, Telephone 615-741-7586.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS****STANDARDS FOR HOSPITAL**

Rule 1200-8-1-.04, Administration, is amended by adding the following language as new paragraphs (7) and (8) and numbering the remaining paragraph accordingly:

- (7) The hospital shall ensure a framework for addressing issues related to care at the end of life.
- (8) The hospital shall provide a process that assures pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-1-.12, Patients Rights, is amended by adding the following language as new subparagraphs (1) (g) and (1) (h):

- (1) (g) To have appropriate assessment and management of pain.
- (1) (h) To be involved in the decision making and all aspects of their care.

STANDARDS FOR NURSING HOMES

Rule 1200-8-6-.04, Administration, is amended by adding the following language as new paragraphs(16) and (17):

- (16) The nursing home shall ensure a framework for addressing issues related to care at the end of life.
- (17) The nursing home shall provide a process that assures pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-6-.12, Resident Rights, is amended by adding the following language as new subparagraphs (1) (o) and (1) (p), and numbering the remaining subparagraphs accordingly:

- (1) (o) To have appropriate assessment and management of pain;
- (1) (p) To be involved in the decision making and all aspects of their care;

STANDARDS FOR AMBULATORY SURGICAL TREATMENT CENTERS

Rule 1200-8-10-.04, Administration, is amended by adding the following language as new paragraphs (6) and (7) and numbering the remaining paragraphs accordingly:

- (6) The ASTC shall ensure a framework for addressing issues related to care at the end of life.
- (7) The ASTC shall provide a process that assures pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-10-.12, Resident Rights, is amended by adding the following language as new subparagraphs (1) (c) and (1) (d), and numbering the remaining subparagraphs accordingly:

- (1) (c) To have appropriate assessment and management of pain.
- (1) (d) To be involved in the decision making and all aspects of their care.

STANDARDS FOR RESIDENTIAL HOSPICE

Rule 1200-8-15-.04, Administration, is amended by adding the following language as new paragraphs (3) and (4), and numbering the remaining paragraphs according:

- (3) The residential hospice shall ensure a framework for addressing issues related to care at the end of life.
- (4) The residential hospice shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-15-.12, Patient/Resident Rights, is amended by adding the following language as new subparagraphs (1) (m) and (1) (n), and numbering the remaining subparagraphs accordingly:

- (1) (m) To have appropriate assessment and management of pain;
- (1) (n) To be involved in the decision making and all aspects of their care;

STANDARDS FOR HOME CARE ORGANIZATIONS PROVIDING HOME HEALTH SERVICES

Rule 1200-8-26-.04, Administration, is amended by adding the following language as new paragraphs (2) and (3), and numbering the remaining paragraphs accordingly:

- (2) The home health agency shall ensure a framework for addressing issues related to care at the end of life.
- (3) The home health agency shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-26-.12, Patient Rights, is amended by adding the following language as new subparagraphs (1) (b) and (1) (c), and numbering the remaining subparagraphs accordingly:

- (1) (b) To have appropriate assessment and management of pain;
- (1) (c) To be involved in the decision making and all aspects of their care;

STANDARDS FOR HOME CARE ORGANIZATIONS PROVIDING HOSPICE SERVICES

Rule 1200-8-27-.04, Administration, is amended by adding the following language as new paragraphs (3) and (4), and numbering the remaining paragraphs accordingly:

- (3) The hospice agency shall ensure a framework for addressing issues related to care at the end of life.
- (4) The hospice agency shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-27-.12, Patient Rights, is amended by adding the following language as new subparagraphs (1) (c) and (1) (d), and numbering the remaining subparagraphs accordingly:

- (1) (c) To have appropriate assessment and management of pain;
- (1) (d) To be involved in the decision making and all aspects of their care;

STANDARDS FOR HIV SUPPORTIVE LIVING

Rule 1200-8-28 .04, Administration, is amended by adding the following language as new paragraphs (3) and (4) and numbering then other paragraphs accordingly:

- (3) The HIV supportive living facility shall ensure a framework for addressing issues related to care at the end of life.
- (4) The HIV supportive living facility shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

Rule 1200-8-28-.12, Resident Rights, is amended by adding the following language as new subparagraphs (1) (m) and (n), and numbering the remaining subparagraphs:

- (1) (m) To have appropriate assessment and management of pain;
- (1) (n) To be involved in the decision making and all aspects of their care;

Authority: *T.C.A. §§4-5-202, 4-5-204, 28-11-202, 68-11-209, 68-11-210 and 68-11-213*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2001. (05-20)

**DEPARTMENT OF HUMAN SERVICES - 1240
CHILD SUPPORT DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of new rules pursuant to TCA §§ 36-5-901 et seq. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at 531 Henley Street, Seventh Floor Conference Room A, Knoxville, Tennessee 37902 at 1:30 PM Eastern Time on July 23, 2001, at the Second Floor Auditorium, State Office Building, 170 North Main Street, Memphis, Tennessee 38103 at 1:30 PM Central Time on July 27, 2001 and the Second Floor Conference Room, Citizen's Plaza Building 400 Deaderick Street, Nashville, Tennessee 37248 at 1:30 PM Central Time on July 30, 2001 in Nashville. Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Legal Assistant Velma Garrett at District 1/Knoxville Department of Human Services, 531 Henley Street, Suite 210, Knoxville, Tennessee 37902, (865) 594-5502, Linda Greer at District 8/Memphis Department of Human Services, 170 North Main Street, 9th Floor, Memphis, Tennessee 38103, (901) 278-1630 or ADA Coordinator, Doris Batey, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5570.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1240-2-5
LIENS FOR CHILD SUPPORT**

NEW RULES

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1240-2-5-.01 PURPOSE AND SCOPE.

- (1) Section 368 of the Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act of 1996 (Public Law 104-193) codified at 42 United States Code Annotated 666(a)(4) requires that all states have laws in effect that cause liens to arise by operation of law against all real and personal property owned by a child support obligor who has overdue support payments, and 42 United States Code Annotated §654a(g) and (h) and §666(c)(1)(G) require that automated systems be utilized in the process of enforcing those liens.
- (2) In addition, 42 USC §666 (c)(1)(G) requires that where there is a support arrearage, the states have in effect provisions to satisfy both current support obligations and arrearages by allowing the State to intercept or seize from State or local agencies or any other person or entity holding any assets of an obligor including periodic or lump-sum payments such as, but not limited to, unemployment compensation, workers' compensation, and other benefits, and judgments, settlements and lottery winnings, by attaching and seizing assets of the obligor held in financial institutions, by attaching public and private retirement funds, by imposing liens on the property of an obligor by operation of law and by enforcing the liens against child support obligors by the sale of property and distribution of the proceeds.
- (3) Liens
 - (a) Tennessee Code Annotated, §36-5-901(b)(1) and (3) permit the Department to file notices of a lien arising under paragraphs (1) and (2) on the real and personal property in the appropriate place for the filing of such liens or security interests in the property, and allows for the filing of such liens by automated processes where feasible.
 - (b) The notice of lien, which is effective against all real and personal property of the obligor, may be filed directly with the person or entity holding the assets of an obligor, or the notice of lien may be filed with the register of deeds office, filing the notice of lien by means of a computer terminal arrangement in the office of the register of deeds or other state or local office where information regarding the existence, or it may be filed by use of the internet. The notice shall show the existence, amount and date of the lien or security interest involving an obligor for persons researching the title to real or personal property or who may be seeking the status of any security interests or liens affecting any real or personal property held by an obligor.
- (4) The purpose of this Chapter is to establish procedures for the establishment of liens in favor of the Department of Human Services for the collection of current support and support arrears pursuant to the Title IV-D child support program and to establish procedures for the enforcement of those liens.

Authority: T.C.A. §§4-5-202; 36-5-901(b) et seq.; 36-5-912; 36-5-1001 et seq.; 45-19-101; 71-1-132; 42 USC §§ 654a (a), (g) and (h) and 666(c)(1)(G).

1240-2-5-.02 DEFINITIONS.

For purposes of this Chapter the following terms shall have the following meanings:

- (1) "Administrative action" means procedures undertaken by the Department or its contractors by administrative order pursuant to law or regulations.
- (2) "Arrears" or "Arrearage" means any occasion on which the full amount of support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal

support would be included for the purposes of 42 USC 654A(4), is not paid by the due date for arrears as defined in TCA §36-5-101(a)(5) unless an income assignment is in effect and the payer of income is paying pursuant to subsection § 36-5-101(g). Arrears or arrearage may also be known as and referred to in these rules as “past-due” or “overdue” support, and shall include the totals of all amounts of support that are in arrears and that remain unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.

- (3) “Child support” or “support” for purposes of this Chapter means a judgment, decree, or order, whether temporary, final or subject to modification issued by a court of competent jurisdiction or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the state which issued the order, and shall include the support of a parent with whom the child is living, and which order, judgment or decree provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest, penalties, income withholding, attorneys fees and other relief.
- (4) “Current support obligation” means the amount of support due each month pursuant to a judicial or administrative order.
- (5) “Department” means the Tennessee Department of Human Services or its contractors who provide child support services in the courts of Tennessee to the Department as part of the Department’s responsibilities under Title IV-D of the Social Security Act.
- (6) “Final Order” means for purposes of this Chapter, an order for seizure or sale of an obligor’s property shall be final when the obligor either fails to appeal the order in a timely way as provided by this Chapter or when the administrative or judicial remedies provided by this Chapter or by Tennessee Code Annotated, §§ 36-5-901 et seq. and §§ 36-5-1001 et seq. have been exhausted.
- (7) “Financial institution” means for purposes of this Chapter:
 - (a) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 USC §1813(c));
 - (b) An institution-affiliated party, as defined in Section 3(u) of such Act (12 USC §1813(u));
 - (c) Any Federal credit union or State credit union as defined in Section 101 of the Federal Credit Union Act (12 USC §1752), including for the purposes of this Chapter an institution-affiliated party of such a credit union, as defined in Section 206 of such Act (12 USC §1786);
 - (d) Any benefit association, insurance company, safe deposit company, money-market mutual fund, securities broker/dealer or similar entity authorized to conduct business in this State.
- (8) “Levy” means the imposition of a claim of the Department upon the property of the obligor and shall include an administrative order issued by the Department for seizure of assets or property of the obligor.
- (9) “Lien” means a claim or charge on property for payment of a debt, obligation or duty.
- (10) “Lien obligation” means that once a lien has been perfected by automated or by notice of lien or by other methods, the amount of the lien will reflect the amount due by an obligor on the date of seizure or if by automated means, the amount shown on the lien screen.

- (11) “Obligee” means the person or agency to whom an obligation of child or spousal support is owed by an obligor.
- (12) “Obligor” means the person who owes a duty of support to a child or the child’s parent or caretaker.
- (13) “Overdue support” means for purposes of this Chapter, any occasion on which the full amount of ordered support for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent spousal support would be included for the purposes of 42 U.S.C. § 654(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payer of income is paying pursuant to § 36-5-101(g). “Overdue support” shall include all amounts of support that are in arrears as defined in § 36-5-101(a)(5) and that remain unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.
- (14) “Past-due” support shall have the same meaning as “overdue support”.
- (15) “Qualified domestic relations order” means a domestic relations order, as defined in 29 USC §1056(d) which creates or recognizes the existence of an alternate payee’s right, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a participant under a pension plan and which meets the requirements of 29 USC §1056(d).
- (16) “Register” or “Register of Deeds” means the county official whose office is responsible for the recording of documents and other information relative to real property transactions, liens on property, and other documents as required by law.
- (17) “Secretary of State’s Division of Business Services” means the Division of the Department of State which, among other responsibilities, files and maintains records of financing statements on secured transactions under the Uniform Commercial Code (UCC), as well as amendments, releases, assignments, continuations and terminations, and maintains information about and copies of filed documents.
- (18) “TACSLR” means the Tennessee Automated Child Support Lien Registry operated by the Department of Human Services containing data and functions through an internet based application for the recording by that application, or, if determined appropriate, in the offices of the Registers of Deeds, the Office of the Secretary of State, and other appropriate locations, of any information to establish and perfect liens on the real and personal property of support obligors.
- (19) “TCSES” means the Tennessee Child Support Enforcement System operated by the Department of Human Services containing data and functions for the recording of child or spousal support data and for collection, distribution, and disbursement of child and spousal support payments.
- (19) “Title IV-D” means Title IV-D of the Social Security Act codified at 42 United States Code Annotated § 651 et seq. Title IV-D establishes the joint Federal/State child support enforcement program in effect in all States and Territories of the United States. The Department of Human Services is the Title IV-D support enforcement agency for the State of Tennessee and through that program provides legal services for establishment, modification and enforcement in Title IV-D support cases. Title IV-D support cases include both the obligations which are owed to the State of Tennessee through the assignment of rights of Families First (welfare) recipients, and services provided to obligees who are not, or may never have been recipients of Families First or Aid to Families with Dependent Children, and who have applied for support services through the Department or its contractors. In addition, the Department is required by Federal regulations to provide services pursuant to Title IV-D to obligors who seek modifications of their support obligation or who may seek establishment of paternity.

Authority: *T.C.A. §§4-5-202; 36-5-901 et seq.; 36-5-912; 36-5-1001; 71-1-132; 29 USC §1056(d); 42 USC §§654a (a), (g) and (h); 659(i); and 666(c)(1)(G) and (c)(3).*

1240-2-5-.03 LIENS FOR CHILD SUPPORT ARREARAGES.

- (1) In any case of child or spousal support enforced by the Department or its contractors under Title IV-D of the Social Security Act in which arrears are owed by an obligor who resides or owns property in this state, a lien shall arise by operation of law against all real and personal property, tangible or intangible, then owned or subsequently acquired by the obligor against whom the lien arises for the amounts of overdue support owed or the amount of penalties, costs or fees as provided in this Chapter.
- (2) In cases where there is an arrearage of child or spousal support in a Title IV-D child support case or in which a lien arises pursuant to TCA §36-5-901, the Department may, without further order of a court, secure the assets of the obligor to satisfy the current obligation or the arrearage by:
 - (a) Intercepting or seizing periodic or lump-sum payments or benefits due the obligor:
 1. From a state or local agency;
 2. From judgments of any judicial or administrative tribunal, settlements approved by any judicial or administrative tribunal, and lottery winnings;
 - (b) Attaching or seizing assets of the obligor or the assets in which the obligor has an interest that are in the possession of any other person or entity, held in any financial institution as defined in 1240-2-5-.02;
 - (c) Attaching public and private retirement funds; and
 - (d) Imposing liens in accordance with these rules and §36-5-901 and, in appropriate cases by forcing the sale of the obligor's legal or equitable interest in the property and distributing the proceeds of such sale.
- (3) The Department may file its notice of lien by:
 - (a) Any method established by law for filing the notice of lien in the appropriate offices for a filing notice of a lien;
 - (b) Sending a notice of lien by the Commissioner or any authorized representative of the Department or by any appropriate means, including by any automated means to any person or entity which holds or which may hold any assets payable or due to be paid or transferred to an obligor of overdue support notifying the person or entity of the existence of a lien for overdue support.
 1. The receipt of such notice by that person or entity shall be adequate notice of the Department's lien upon the obligor's assets of any kind which are held by the person or entity or which may come into that person's or entity's possession or control.
 2. Subject to the priorities of 1240-2-5-.05 or the subordination of these liens to orders or judgments pursuant to TCA §36-5-905(c)(1)(A) and (c)(1)(B), and subject to any exemptions allowed by TCA §36-5-906, payment or transfer to the obligor or other persons or entities of the funds, property, or other assets of any kind which are encumbered by the lien subsequent to the receipt of such notice, shall make the person or entity liable to the Department to the extent of the overdue support, up to the value of the transferred assets, in an action in the appropriate court of the county in which the order of support is being enforced.
 3. The Department may choose, in its sole discretion, to enforce the overdue obligation against either the obligor, the transferee, or both; or

- (c) Any other method provided for in TCA §36-5-901 et seq., by other provisions of law and by other rules of the Department relating to enforcement of liens for support that are being enforced pursuant to Title IV-D, including the exclusive use of an internet application for the filing of the notice of lien by the Department.
- (4) The notice of lien filed under this Chapter and TCA §36-5-901(b) or any renewal thereof, shall be effective until the obligation is paid.
- (5) When necessary to perfect the lien with third parties when perfection has not occurred by automated means or where the notice or order of seizure or sale is inappropriate, the Department may use the Notice of Lien form issued by the United States Department of Health and Human Services' Office of Child Support Enforcement on November 20, 1997 in Action Transmittal 97-19, or any subsequently modified forms, for the filing of notice of any administratively issued liens pursuant to this Chapter. Rule 1240-2-5-.16 contains the Notice of Lien. Modification of any existing Federal forms shall not invalidate any form used pursuant to these rules.
- (6) Nothing herein shall require the Department to file a notice of lien for the seizure of or levy on an obligor's assets held by a state or local agency, by a court or administrative tribunal, by a lottery, by a financial institution or by a public or private retirement fund pursuant to TCA §36-5-904(a)(1)-(3) and Rule 1240-2-5-.03(2)(a)-(c) or to obtain any income withholding from any employer or other payer of income as otherwise permitted under Tennessee Code Annotated, Title 36, Chapter 5, Part 5.
- (7) Nothing herein shall limit the Department's authority to file or enforce its liens for support by any method otherwise provided by law for the establishment or enforcement of liens.

Authority: T.C.A. §§4-5-202; 36-5-901(a)(1); 36-5-904; 36-5-912; 36-5-1001; 45-19-101; 50-6-223; 71-1-132; 29 USC §1056(d), 42 USC §§ 654a (a), (g) and (h); 659(i) and 666(c)(1)(G) and (c)(3).

1240-2-5-.04 FULL FAITH AND CREDIT TO LIENS OF OTHER STATE CHILD SUPPORT AGENCIES.

- (1) Full faith and credit shall be accorded to liens arising in any other State or territory for cases of child or spousal support enforced by the Title IV-D child support enforcement agency of the other State or territory as a result of the circumstances of TCA §36-5-901(a) for all overdue support, as defined in the other State or territory, when that other State or territory agency or other entity complies with the procedural rules relative to the recording or serving of liens that arise within this State.
- (2) The Department of Human Services may enforce the liens arising pursuant to this section by any means available for enforcement of its liens.

Authority: T.C.A. §§4-5-202; 36-5-902; 36-5-912; 36-5-1001; 71-1-132, 42 USC. §§ 654a (a), (g) and (h); 659(i) and 666(c)(1)(G) and (c)(3).

1240-2-5-.05 LIEN PRIORITIES.

- (1) The lien of the Department for child support arrearages shall be superior to all liens and security interests created under Tennessee law except:
 - (a) County and municipal ad valorem taxes and special assessments upon real estate by county and municipal governments;

- (b) Deeds of trust which are recorded prior to the recordation of notice of the Department's lien;
- (c) Security interests created pursuant to Article 9 of the Uniform Commercial Code, compiled in Tennessee Code Annotated, Title 47, Chapter 9, which require filing for perfection and which are properly filed prior to recordation of the notice of the Department's lien;
- (d) Security interests perfected under the Uniform Commercial Code without filing, as provided in TCA §47-9-302(1), which are properly perfected prior to recordation of the notice of the Department's lien;
- (e) The lien or security interest of a financial institution against an obligor's interest in a deposit account at that institution for any indebtedness to the institution, including but not limited to, that institution's security interest in accounts pledged for loans, its rights under the Uniform Commercial Code or by contract to charge back uncollected deposits, revoke settlements or take other action against said account, its right to recover overdrafts and fees, and its right of offset for mature indebtedness;
- (f) Other security interests in deposit accounts at a financial institution when such interests are reflected in the records of that financial institution prior to the receipt of an administrative order of seizure;
- (g) Other liens recorded prior to the recordation of the Department's lien, or concerning which a judicial proceeding was initiated prior to recordation of the Department's lien.
- (h) Vendors' liens on real estate provided for in Tennessee Code Annotated, Title 66, Chapter 10 which are recorded prior to the recordation of notice of the Department's lien;
- (i) The tax liens of the Department of Revenue filed pursuant to Tennessee Code Annotated, Title 67 prior to the Department's child support lien;
- (j) Any deed of trust or any security interest perfected under the Uniform Commercial Code prior to the filing of the notice of Department's child support lien, irrespective of when such child support lien arises. "Filing" for purposes of this subparagraph shall mean that the Department has recorded its notice of lien pursuant to the provisions of Rule 1240-2-5-.03 by filing a document to record its notice of lien in the appropriate office for such recordation or that it has effectively recorded its lien pursuant to the automated recordation method permitted by TCA §36-5-901(b)(3) and Rule 1240-2-6-.03, .04 and .05.
- (k) A lien on a motor vehicle unless such lien is physically noted on the certificate of title of such motor vehicle; and
- (l) Any possessory lien including, but not limited to mechanics' and materialmen's liens pursuant to Tennessee Code Annotated, Title 66, Chapter 11, Part 1; artisans' liens pursuant to Tennessee Code Annotated, Title 66, Chapter 14 Part 1; or garagekeepers' and towing firm liens pursuant to Tennessee Code Annotated, Title 66, Chapter 19, Part 1.

Authority: T.C.A. §§4-5-202; 36-5-901(c) and (d); 36-5-912; 36-5-1001; 71-1-132; 42 USC. §§654a (a), (g) and (h); 659(i) and 666(c)(1)(G) and (c)(3).

1240-2-5-.06 ENFORCEMENT OF LIENS BY ADMINISTRATIVE SEIZURE OR SALE ORDER.

- (1) The Department may enforce the provisions of Rule 1240-2-5-.03 and TCA §36-5-901 et seq. by issuance of an administrative order to any person or entity directing the seizure or sale of any assets of an obligor. The order shall direct the person or entity to hold, subject to any due process procedures provided to the obligor, all assets of any

kind of the obligor who is subject to the order, pending the outcome of the administrative due process procedures provided by this Chapter. The order shall be based upon and issued pursuant to an existing judicial or administrative order which has previously established support under which an arrearage, due to overdue support, as defined in TCA §36-5-901, has occurred.

- (2) The administrative order for seizure or sale of assets may be issued upon determination by the Department, as shown by records of the support obligation, that arrears involving the obligor's support obligations exist.
- (3) Notice to the Obligor.
 - (a) There shall be no requirement of advance judicial notice or hearing prior to the seizure of the obligor's property by administrative order, but the Department will not permit the final disposition of any property seized under the lien enforcement procedures until the exhaustion of administrative and judicial remedies as provided in this Chapter at 1240-2-5-.13.
 - (b) A notice shall be sent to the obligor against whom the administrative order for seizure or sale of assets is directed by mail within five (5) days of the issuance of such administrative seizure order of the fact that such assets have been the subject of an administrative order and that they have been seized or are subject to sale and are being held, may be conveyed to the Department or may be sold, subject to the right to an administrative hearing to contest the seizure or sale of such assets.
 - (c) The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property actually seized and, in the case of real property, a description with reasonable certainty of the property seized. In the case of assets in a financial institution, it shall be sufficient to notify the obligor of the seizure of any assets of the obligor which may be held by any institution to which the order is directed.
- (4) All administrative orders for seizure or sale shall be subject to and subordinate to:
 - (a) Any order or automatic stay by the United States Bankruptcy Court affecting an asset of the obligor;
 - (b) An attachment or execution under any judicial process in effect at the time of the administrative seizure order, pending modification of such court's orders;
 - (c) A priority under Rule 1240-2-5-.05; or
 - (d) A claim for reasonable attorneys fees, subject to the limitations on such fees by the rules of the Tennessee Supreme Court, whether evidenced by a court order, a statutory provision, or a contract.
- (5) An administrative order for the seizure of pension and retirement funds shall comply with the provisions for a qualified domestic relations order pursuant to 29 USC §1056(d), if applicable.
- (6) If the assets of the obligor are known by the person or entity which received such administrative order to be subject to any orders of the United States Bankruptcy Court, or to any attachment, execution or existing lien, said person or entity shall, within ten (10) days after receipt of the administrative order, notify the Department at the address contained in the order. With respect to deposit accounts of the obligor, the depository financial institution shall inform the Department of the unencumbered balances of such accounts.
- (7) Method of Issuance of Administrative Order of Seizure or Sale.

- (a) The order may be issued, and shall be effective, if issued to the holder of property or to the person or entity in possession of, or obligated with respect to property or rights to, property of the obligor. It may be issued electronically or manually by a paper document approved by the Department. It shall be based upon any information showing to the Department or its contractors or other agents that the person whose property is to be seized is an obligor owing overdue support as defined in this Chapter.
 - (b) The administrative order of seizure may also be issued, and shall be effective, if issued to the holder of property or to the person or entity in possession of, or obligated with respect to property or rights to, property of the obligor, if the order is transmitted electronically or magnetically by use of any computer data match process based upon any information available to the Department showing that the person whose property is to be seized is a child support obligor owing overdue support as defined in this Chapter.
 - (c) When an administrative order is issued by the Department pursuant to any provisions of law or regulations or pursuant to agreements entered pursuant to TCA §45-19-101(a) or (b) directing the encumbrance, escrow, seizure or surrender of assets of an obligor consisting of a demand deposit account, or an account accessible by a check or negotiable order of withdrawal for the purpose of satisfying a lien for past-due child support, the Department may direct that only a portion of such accounts, up to the amount necessary to satisfy the existing lien for past-due child support, be encumbered, escrowed, seized or surrendered. If less than the whole amount of the account is sought, the Department's order shall direct the financial institution to withhold a specific percentage or a specific dollar amount of those types of accounts.
- (8) To satisfy overdue support, an order of seizure and sale may be issued to the obligor if the obligor is in physical possession of property which is sought to be sold, and the order shall direct that the property be held subject to the provisions of this Chapter.
 - (9) Upon receipt of the administrative order of seizure, whether received electronically or otherwise, the person or entity which has possession of the assets of the obligor shall immediately seize, hold, and encumber such assets, as directed by the Department, pending further direction from the Department as to the disposition of the assets or pending any further orders of any court of competent jurisdiction. The person or entity must secure in an escrow account for such purpose, or by such other reasonable means, such assets of the obligor in its possession, and must take any other steps deemed reasonable to preserve any real or personal property.
 - (10) Upon receipt of directions from the Department that all due process procedures have been completed or were waived in any manner, and subject to the provisions of paragraph (4) and subject to the priority for the Department's liens as described in Rule 1240-2-5-.05, the person or entity shall pay or deliver to the Department, pursuant to its direction, the assets of the obligor which are held or which come into the possession or control of the person or entity and which are necessary to comply with the terms of the Department's administrative order.
 - (11) Sale of property which has been seized from an obligor in physical or constructive possession of the property may proceed following exhaustion of administrative or judicial processes provided in this Chapter, applicable provisions of TCA §36-5-1001 et seq. and the procedures for sale provided by these rules.
 - (12) Pursuant to TCA §36-5-905(g), all persons or entities complying with any administrative order issued pursuant to this section shall be absolutely immune from any liability, civil or criminal, for compliance with the terms of such order or attempted compliance in good faith with such order.

Authority: T.C.A. §§4-5-202; 36-5-901; 36-5-901; 36-5-912; 45-19-101; 42 USC §654a(h); 42 USC §666(a)(14),(17).

1240-2-5-.07 REBUTTABLE PRESUMPTION REGARDING OWNERSHIP.

- (1) There shall be a rebuttable presumption concerning property which is subject to the provisions of this Chapter, except where otherwise clearly noted by the evidence of title or otherwise, or where legal ownership of property is otherwise clearly stated, that at least one-half of all real or tangible personal property which is titled to or in the possession of the obligor is owned by the obligor who is subject to the lien provisions of this Chapter.
- (2) All jointly held accounts in any financial institution shall be rebuttably presumed to be available in whole to the obligor.

Authority: T.C.A. §§4-5-202; 36-5-901et seq.; 36-5-903; 36-5-912.

1240-2-5-.08 EXEMPTIONS FROM SALE/ENUMERATION OF EXEMPTIONS.

- (1) There shall be exempt from sale of personal property subject to lien pursuant to this Chapter:
 - (a) Wearing apparel and school books. Such items of wearing apparel and such school books as are necessary for the obligor or for members of the obligor's family and the family bible or other book containing the family's religious beliefs;
 - (b) Fuels, Provisions, Furniture, And Personal Effects. If the obligor is the head of the family, so much of the fuel, provisions, furniture, and personal effects in the obligor's household, and of the arms for personal use, livestock, and poultry of the obligor, as does not exceed five thousand dollars (\$5,000) in value; and,
 - (c) Books And Tools Of A Trade, Business, Or Profession. So many of the books and tools necessary for the trade, business or profession of the obligor as do not exceed in the aggregate two thousand five hundred dollars (\$2,500) in value.
- (2) Appraisal.
 - (a) The agent of the Department seizing property of the type described in paragraph (1) shall appraise and set aside to the owner the amount of such property declared to be exempt.
 - (b) If the obligor objects at the time of the seizure to the valuation fixed by the agent making the seizure, the Commissioner or the Commissioner's agent shall summon three (3) disinterested individuals who shall make the valuation. These individuals shall consist of any persons aged eighteen (18) years of age and above deemed by the Commissioner or the Commissioner's agent to have sufficient ability to understand the reasons for the valuation and to possess objectivity in the process who are not related to the person and who are not otherwise employed or under contract with the Department or related to an employee or contractor of the Department, and who have demonstrated some experience in the valuation of property.
- (3) No Other Property Exempt. No property or rights to property shall be exempt from levy or seizure other than the property specifically made exempt by paragraph (1).

Authority: T.C.A. §§4-5-202; 36-5-901et seq.; 36-5-906; 36-5-912.

1240-2-5-.09 EFFECT OF FINAL ORDER/CONVEYANCE OF TITLE.

- (1) A final order of seizure or a sale of the obligor's property pursuant to this Chapter shall be effective to convey and vest title of all assets subject to the order in the Department or in the purchaser that are not inferior to any interest as stated in 1240-2-5-.05.
- (2) Following the expiration of time for any appeals of the final order of seizure or sale, the Commissioner or the Commissioner's agent may convey title to personal property by a final order of disposition of assets or by executing a certificate of title or may execute a quitclaim deed conveying title to real property to the purchaser. The purchaser shall be responsible for all costs of recording title to the property conveyed by the Commissioner.
- (3) Until real estate is sold, the Commissioner or his or her delegate may, in the exercise of his or her discretion and if such action is deemed to be in the best interest of the Department or the obligee, lease such property to the obligor or any other person considered to be an acceptable lessee by the Commissioner or his or her delegate.
- (4) In cases where real estate has or may become the property of the Department in payment of or security for a support obligation and such obligation shall have been paid, together with any interest, penalties and costs thereon, to the Department at any time from the date of the acquisition of such real estate to the date of sale of such to another person, the Commissioner or his or her delegate may release by deed or otherwise convey such real estate to the obligor from whom it was taken, or to his or her heirs or other legal representatives.
- (5) The Commissioner or his or her delegate shall account for the proceeds of all sales or leases, or releases of the property and for all expenses connected with the maintenance, sale, lease or release of the property, and the net proceeds shall be paid over by the Commissioner or the delegate and distributed as required by law and by the support orders of the court.

Authority: T.C.A. §§4-5-202; 36-5-901et seq., 36-5-905(f); 36-5-912.

1240-2-5-.10 AUTHORITY OVER SEIZED OR SOLD PROPERTY.

- (1) The Commissioner or the Commissioner's agent shall have charge of all real estate or personal property which is or shall become the property of the Department by seizure or judgment under any provision of this Chapter or any other Title of the Tennessee Code Annotated, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the Department in payment of child support obligations, debts or penalties arising thereunder, or which has been or shall be vested in the Department by mortgage or other security for the payment of such obligations and of all trusts created for the use of the Department in payment of such obligations, debts or penalties due the Department.
- (2) Any assets of the obligor which are vested in the Department may be used as required or permitted under State and Federal law or regulations relative to the distribution of support payments collected by a Title IV-D agency, to pay to the obligee for prior child support, medical support or spousal obligations which have remained unpaid or to repay the State of Tennessee or the Federal government for any cash assistance payments made on behalf of a child or the child's caretaker. Any amount collected on behalf of another State or Territory shall be paid by the Department to that State or Territory's child support receiving unit.

Authority: T.C.A. §§4-5-202; 36-5-901et seq.; 36-5-908; 36-5-912.

1240-2-5-.11 PROCEDURES FOR SALE OF PROPERTY.

- (1) The procedures in this Chapter will be utilized for the sale of real or personal tangible property which has been subject to an administrative seizure and sale order issued by the Department of Human Services after such order has become final.

- (2) The Department of Human Services may utilize the same methods and rules for the seizure and sale of property as are established by the Department of Revenue pursuant to the provisions of Tennessee Code Annotated, Title 67, Chapter 1, Part 14 for the collection of taxes and those rules adopted by the Tennessee Department of Revenue to the extent that the rights and duties set forth therein are consistent with the provisions of state and federal laws administering the child support program established pursuant to Title IV-D of the Social Security Act. All references therein to taxes and taxpayers and collection of taxes shall be interpreted by the Department of Human Services in applying those procedures to relate to the collection of child support and payment of such collections to the state and/or to the obligee of the child support obligation.
- (3) The Department of Human Services may contract with the Department of Revenue or any other state agency or private contractor to provide services related to the seizure or disposition of property subject to the liens established by Tennessee Code Annotated, Title 36, Chapter 1, Part 9, or this Chapter.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 36-5-905; 36-5-912; 36-5-1006.

1240-2-5-.12 RELEASE OF LIEN.

- (1) At any time after the child support obligation has been paid, the person holding title to the property on which the lien is placed may request the Department to release the lien. If the Department does not release the lien within sixty (60) days of the request, it shall be liable for court costs in any action to remove the lien if the obligor is the prevailing party.
- (2) The Department may cause the issuance of releases of liens by filing or recording such release of lien with the register of deeds or any other appropriate state or local office as provided under any method authorized pursuant law and pursuant to Chapter 1240-2-6 regarding automated liens, and TCA §36-5-901 for the filing of notices of liens, including the use of an internet application, or the Department may supply copies of such release of liens by the Department to any person or entity requesting a release for filing or recording of the release by that person or entity.
- (3) The release may be conveyed to the obligor or the obligor's authorized representative by any electronic means, including an internet application, or by facsimile transmission, and may be in such form as Department may prescribe. If a facsimile transmission is utilized pursuant to this paragraph, it shall be supplemented by a copy of suitable quality if such facsimile's quality is not adequate for purposes of recording by the Register of Deeds or other appropriate official. The obligor is responsible for all costs to have the release filed if necessary.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 36-5-903; 36-5-912.

1240-2-5-.13 DUE PROCESS PROCEDURES FOR ADMINISTRATIVE SEIZURE OR SALE OF ASSETS.

- (1) The person seeking administrative review of the administrative action of the Department involving enforcement of a lien for child support by an administrative order of seizure, or levy, or sale, upon the person's assets shall file a written request with the office of the Department indicated in the notice given in Rule 1240-2-5-.06(3) to the person within fifteen (15) calendar days of the date of the notice of seizure or sale.
- (2) Review of the enforcement by administrative orders of liens for child support pursuant to Tennessee Code Annotated, Title 36, Chapter 5, Part 9 shall be limited to:
 - (a) The correct identities of the persons or entities involved;
 - (b) Whether there is a mistake of fact involving the action by the Department;

- (c) The correct amount of the obligation;
 - (d) The extent of the obligor's interest in the assets; and
 - (e) Whether good cause exists not to seize, sell, levy upon, distribute or otherwise dispose of all or a part of such assets.
- (3) Any person or entity who or which is owner of a joint account in any financial institution or whose or which property interest has been seized due to the presumption of joint ownership as provided in TCA §36-5-903, shall have standing to appeal any order of seizure or sale of assets pursuant to this Chapter.
 - (4) Upon review pursuant to the standards of paragraph (2), the hearing officer may direct that there is a mistake as to the identity or interest of the person whose assets have been seized or levied upon and dismiss the order, or may direct that all or only a portion of the assets be disposed of, or that there be some other order for the disposition of the assets of the obligor in order to satisfy the support arrearage.
 - (5) The Department's hearing officer or the reviewing court may grant any relief of a preliminary or temporary nature relative to the obligor's assets, as may be appropriate under the circumstances, pending the entry of the final order.
 - (6) The hearing officer may not forgive any support arrearages upon review of any administrative order.
 - (7) The record of support, as certified by the clerk of the court, or as shown by the Department's child support computer system (TCSES) shall be admissible in the hearing without further foundation testimony, and shall constitute a rebuttable presumption as to the amount of support which is in arrears and which is owed by the obligor in any review pursuant to this Chapter.
 - (8) If submitted to the opposing party ten (10) days prior to the administrative hearing, the affidavit of a keeper or custodian of any other records, including, but not limited to, the records of any financial institution or the Department of Human Services or any other government or private entity, concerning any matter before the hearing officer, shall be admitted by the hearing officer unless an objection to its admission is submitted five (5) days prior to the hearing. If an objection is filed and is upheld by the hearing officer, the hearing officer shall continue the case to permit the production of records or the taking of any further testimony which may be necessary to resolve the issues.
 - (9) In order to expedite the review of these matters, the hearing officer shall have discretion to take testimony of any party or witness by telephone or video or by other electronic technology, and documents may, in the hearing officer's discretion, be submitted by facsimile transmission or by any other electronic technology.
 - (10) Judicial review of the Department's administrative decision shall be conducted according to the provisions of TCA §36-5-1003.

Authority: T.C.A. §§4-5-202; 24-7-121; 36-5-901 et seq., 36-5-905(c); 36-5-912; 36-5-1001 et seq.; 36-5-1001(a)(1)(E).

1240-2-5-.14 NON-INTERFERENCE WITH DEPARTMENT'S ACTIONS.

- (1) No person or entity who has been served with an administrative order, administrative subpoena, or request for information or records shall take any measures to defeat the administrative action of the Department during the pendency of the review of such action by the administrative hearing officer or by the reviewing court.
- (2) The Department or its contractor may seek injunctive relief to prevent any actions which would defeat its administrative actions.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 36-5-1004; 36-5-1006.

1240-2-5-.15 LIABILITY FOR FEES AND COSTS.

The individual or entity to whom or to which the administrative order is issued pursuant to this Chapter and which is enforced by the reviewing court shall be liable for all costs of the court proceedings, and shall be liable to the Department for the cost of any private or contract or government attorney representing the state and for the time of any of its Title IV-D state office staff or contractor staff utilized in the litigating the administrative order, administrative subpoena or request.

Authority: T.C.A. §§4-5-202, 36-5-901 et seq.; 36-5-1005; 36-5-1006.

1240-2-5-.16 CHILD SUPPORT LIEN NOTICE AND INSTRUCTIONS.

(1) Description.

- (a) The Department or its contractors in the Title IV-D program may use the form in paragraph (2) as necessary to give notice of the existence of the lien in intrastate cases, or, in interstate cases as provided by Federal law. The form contains instructions for its use. A blank form in paragraph (3) is provided for the user's convenience.
- (b) Forms reproduced for actual transmission to affected persons or entities may also contain highlighting or shading of areas of the forms for easier reading and emphasis of the contents or may contain state logos. Spaces for information indicated on the forms shall be utilized only to the extent applicable in the particular case.

(2) Form.

OMB Control #: 0970-0153

Notice of Lien

To: 1

Obligor: 2
(Name/dob/ssn)

From: 3
(Claimant)

Obligee: 4
(Name)

Claimant's Case #: 5

This lien results from a child support order, entered on 6
by 7 in 8
docket number 9 . This order requires the above-named obligor
to pay child support in the amount of \$ 10 per 11 .

As of 12 , the obligor owes unpaid support in the amount of
\$ 13 , and this lien amount is subject to an interest rate of 14 .

Prospective amounts of child support, not paid when due, are judgments and accrue to the lien amount. This lien attaches to all non-exempt real and personal property of the above-named obligor, which is located or recorded within the state/county/other subdivision of the state of filing, including any property specifically described below.

Specific description of property: 15

The priority and enforcement aspects of this lien are governed by the law of the state where the property is located. An obligor must follow the laws and procedures of the state where the property is located or recorded to contest or challenge this lien. This lien remains in effect until released by the claimant or in accordance with the laws of the state of filing.

For use by Lien Recorder

Note to Lien Recorder: Please provide the claimant with a copy of the filed lien, containing the recording information, at the address provided above.

Notice of Lien, 1 of 2

Check Either "A" or "B":

A [16] Issued by a IV-D agency/office

As an authorized agent of a state, or subdivision of a state, responsible for implementing the child support enforcement program set forth in Title IV, Part D, of the Federal Social Security Act (42 U.S.C. 651 et seq.), I have authority to file this child support lien in any state, or U.S. Territory. For additional information regarding this lien, including the pay-off amount, please contact the authorized agency (claimant) at the address provided above. Please reference the case number, also provided above.

17
Date

18
Authorized Agent

B [19] Issued by a private (non-IV-D) attorney

I am an attorney representing the above-named obligee. I certify that this lien is issued in accordance with the laws of the state of
For additional information regarding this lien, including the pay-off amount, please contact the undersigned (claimant) at the address provided above.

20
Date

21
Attorney for Obligee

State of)
)ss.
County of)

I certify that _____ appeared before me and is known to me as the individual who signed the above.

Date: _____
Notary Public

My appointment expires _____

Notice: Respondents are not required to respond to this information collection unless it displays a valid OMB control number. The average burden for responding to this information collection is estimated at 30 minutes. If you believe this estimate is inaccurate, or if you have ideas to reduce this burden, please provide comment to the issuing agency.

Notice of Lien, 2 of 2

Instructions for the Notice of Lien

Purpose of this form: The Notice of Lien (lien) is the instrument to use to impose liens in interstate child support cases. 42 USC 654(9)(E) requires all IV-D programs to use this form. This form may also be used in non-IV-D cases by private attorneys.

Whose laws apply?: The lien must be issued in accordance with state law. Issue the lien to secure debts for past-due support upon identifying, in another state, nonexempt real or personal property belonging to the obligor. The laws and procedures of the state where the property is located or recorded determine which office or entity in that state is the appropriate one to receive the lien for filing. It is the responsibility of the agency/office or private attorney issuing the lien to file it with the appropriate entity.

Enforcement and Release: If enforcement of the lien is desired in a IV-D case, the agency/office issuing the lien should request such enforcement action from the IV-D agency in the state where the property is located. To release a previously-filed lien (e.g., upon receipt of full payment, or partial payment with an acceptable agreement to repay remaining balance, etc.) the original issuing state or, if appropriate, the state taking enforcement action, shall use their existing local release of lien form. The release of lien should be provided to the obligor, the office or entity which filed the lien and, if appropriate, all interested IV-D agencies/offices. Identify the lien to be released by including the recording information provided by the office or entity which filed the lien (Lien Recorder). The laws and procedures for the state where the lien is filed control the release of the lien.

To complete this form:

1. In the "To" field: insert the name and address of the office or entity (i.e., County Auditor, Clerk of Court, DMV, etc.) to which you are sending the lien.
2. In the "Obligor" field: insert the obligor's full name, DOB, and SSN (if known). Include known aliases or multiple SSNs used by the obligor.
3. In the "From (Claimant)" field: insert the name, address and phone/fax numbers of office that is issuing this lien.

4. In the “Obligee” field: insert the obligee’s full name.
5. In the “Claimant’s Case #” field: insert the IV-D or other appropriate case number.
6. In the space following “entered on”: insert the date of entry of the order which is the basis for the lien.
7. In the space following “by”: identify the name of the tribunal (court or administrative) that issued the support order which is being used to determine the amount of the lien.
8. In the space following “in”: identify the location (state/county) of the tribunal that issued the support order that is being used to determine the amount of the lien.
9. In the space following “docket number”: identify the tribunal docket, jacket or file number of the support order that is used to determine the amount of the lien.
10. In the space following “in the amount of \$”; insert the amount of the current/prospective support obligation.
11. In the space following “per”: identify the frequency (month/week, etc.) with which the current support is ordered to be paid.
12. In the space following “As of”: insert the date of the debt calculation that is used in determining the amount of the lien.
13. In the space following “amount of \$”: insert the lien amount (the amount of the past-due support obligation owed, including any accrued interest, when the lien is prepared).
14. In the space following “interest rate of “: insert the interest rate that is being charged to the debt. If interest is not being charged insert “n/a”.
15. If applicable, in the space following “Specific description of property”, identify any specific property that you want the lien to attach to. Use the legal description of real property and, when the target of the lien is personal property, always provide the most specific identifying information available, including the location of the property, if known. (For example, include the make/model/year/appropriate registration numbers (if known), as opposed to referring to such personal property as “farm equipment”).

Two options are provided for the signature of the individual issuing the lien.

16. If the lien is being issued by a IV-D agency/office, check the box following “A” near the top of page 2.
17. Provide the date the lien is signed on the line provided above “date”.
18. The appropriate individual in the IV-D agency/office signs the lien on the line above “Authorized Agent”. Type or print the name of the agent signing the lien below their signature.
19. If the lien is being issued by a private attorney in an non-IV-D case, check the box following “B”.
20. If the lien is being issued by a private attorney in an non-IV-D case, check the box following “B” near the top of page 2.
21. Provide the date the lien is signed on the line provided above “date”.

The signature of the individual (IV-D agent, or private attorney) signing the lien must be notarized.

Send a copy of the lien to the obligor at his/her last known address.

- (3) The following blank form is provided for the user’s convenience and shall be used as provided in the instructions accompanying the form contained in paragraph (2).

OMB Control #: 0970-0153

Notice of Lien

To: Obligor:
(Name/dob/ssn)

From: Obligee:
(Claimant) (Name)

Claimant’s Case #:

This lien results from a child support order, entered on _____
by _____ in _____
docket number _____ . This order requires the above-named obligor
to pay child support in the amount of \$ _____ per _____ .

As of _____ , the obligor owes unpaid support in the amount of
\$ _____ , and this lien amount is subject to an interest rate of _____ .

Prospective amounts of child support, not paid when due, are judgments and accrue to the lien amount. This lien attaches to all non-exempt real and personal property of the above-named obligor, which is located or recorded within the state/county/other subdivision of the state of filing, including any property specifically described below.

Specific description of property:

The priority and enforcement aspects of this lien are governed by the law of the state where the property is located. An obligor must follow the laws and procedures of the state where the property is located or recorded to contest or challenge this lien. This lien remains in effect until released by the claimant or in accordance with the laws of the state of filing.

For use by Lien Recorder

Note to Lien Recorder: Please provide the claimant with a copy of the filed lien, containing the recording information, at the address provided above.

Check Either "A" or "B":

A [] Issued by a IV-D agency/office

As an authorized agent of a state, or subdivision of a state, responsible for implementing the child support enforcement program set forth in Title IV, Part D, of the Federal Social Security Act (42 U.S.C. 651 et seq.), I have authority to file this child support lien in any state, or U.S. Territory. For additional information regarding this lien, including the pay-off amount, please contact the authorized agency (claimant) at the address provided above. Please reference the case number, also provided above.

Date Authorized Agent

B [] Issued by a private (non-IV-D) attorney

I am an attorney representing the above-named obligee. I certify that this lien is issued in accordance with the laws of the state of
For additional information regarding this lien, including the pay-off amount, please contact the undersigned (claimant) at the address provided above.

Date Attorney for Obligee

State of)
)ss.
County of)

I certify that _____ appeared before me and is known to me as the individual who signed the above.

Date: _____
Notary Public

My appointment expires _____

Notice: Respondents are not required to respond to this information collection unless it displays a valid OMB control number. The average burden for responding to this information collection is estimated at 30 minutes. If you believe this estimate is inaccurate, or if you have ideas to reduce this burden, please provide comment to the issuing agency.

Notice of Lien, 2 of 2

Authority: TCA §§4-5-202; 36-5-901 et seq.; 36-5-912, 42 USC §§ 654(9)(E) and 666; United States Department of Health and Human Services' Office of Child Support Enforcement Action Transmittal 97-19, November 20, 1997.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2001. (05-27)

**DEPARTMENT OF HUMAN SERVICES - 1240
CHILD SUPPORT DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of new rules pursuant to TCA §§ 36-5-901 et seq. . The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 531 Henley Street, Seventh Floor Conference Room A, Knoxville, Tennessee 37902 at 1:30 PM Eastern Time on July 23, 2001, at the Second Floor Auditorium, State Office Building, 170 North Main Street, Memphis, Tennessee 38103 at 1:30 PM Central Time on July 27, 2001 and the Second Floor Conference Room, Citizen's Plaza Building 400 Deaderick Street, Nashville, Tennessee 37248 at 1:30 PM Central Time on July 30, 2001 in Nashville.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Legal Assistant Velma Garrett at District 1/Knoxville Department of Human Services, 531 Henley Street, Suite 210, Knoxville, Tennessee 37902, (865) 594-5502, Linda Greer at District 8/Memphis Department of Human Services, 170 North Main Street, 9th Floor, Memphis, Tennessee 38103, (901) 278-1630 or ADA Coordinator, Doris Batey, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5570.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1240-2-6
AUTOMATED LIENS FOR UNPAID CHILD SUPPORT**

NEW RULES

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1240-2-6-.01 PURPOSE AND SCOPE

- (1) Section 368 of the Personal Responsibility and Work Opportunity Reconciliation (Welfare Reform) Act of 1996 (Public Law 104-193), codified at 42 United States Code Annotated §666(a)(4), requires that all states have laws in effect that cause liens to arise by operation of law against all real and personal property owned by a child support obligor who owes arrears. The provisions of Title 42 United States Code Annotated §654a(g) and (h) and §666(c)(1)(G) require that automated systems be utilized, to the maximum extent feasible, in the process of enforcing those liens. Chapter 1240-2-5 of the Rules of the Department of Human Services establish procedures for the creation and enforcement of liens for overdue child support.

- (2) Tennessee Code Annotated, §36-5-901(a)(1) creates in state law the automatic lien on all real and personal property for overdue support payments owed by an obligor.
- (3) Tennessee Code Annotated, §36-5-901(b) gives the Department of Human Services the authority to place a computer terminal in each Register of Deeds office and such other places, or to use an internet application, as may be appropriate, in order to effect the federal requirement by automated means.
- (4) Nothing herein shall require that the Department utilize the automatic lien filing processes for filing liens for child support obligations to the exclusion of any other lien processes available by law.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 71-1-132; PL 104-193; 42 USC §§654a (g) and (h); 666(a)(4); 666(c)(1)(G).

1240-2-6-.02

DEFINITIONS

- (1) “Arrearage or “Arrears” means any occasion on which the full amount of support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 USC § 654A(4), is not paid by the due date as defined in TCA §36-5-101(a)(5) unless an income assignment is in effect and the payer of income is paying pursuant to subsection TCA §36-5-501(g). Arrears or arrearage may also be known as and referred to in these rules as “past-due” or “overdue” support, and shall include the totals of all amounts of support that are in arrears and that remain unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.
- (2) “Child support” or “support” for purposes of this chapter means a judgment, decree, or order, whether temporary, final or subject to modification issued by a court of competent jurisdiction or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the state which issued the order, and shall include the support of a parent with whom the child is living, and which order, judgment or decree provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest, penalties, income withholding, attorneys fees and other relief.
- (3) “Current support obligation” means the amount of support due each month pursuant to a judicial or administrative order.
- (4) “Department” means the Tennessee Department of Human Services or its contractors who provide child support services in the courts of Tennessee to the Department as part of the Department’s responsibilities under Title IV-D of the Social Security Act.
- (5) “Effective lien date” means the date on which an obligor’s arrearage, as defined herein, and which has not been paid in full, is initially posted on the Tennessee Automated Child Support Lien Registry (TACSLR).
- (6) “Effective release date” means the date displayed on TACSLR showing that the lien for arrears has been released by the Department.
- (7) “Lien” means a claim or charge on property for payment of a debt, obligation or duty.
- (8) “Lien obligation” means that once a lien has been perfected by automated means or by notice of lien or by other methods, the amount of the lien will reflect the amount due by an obligor on the date of seizure or if by automated means, the amount shown on the lien screen.
- (9) “Obligee” means the person or agency to whom an obligation of child or spousal support is owed by an obligor.

- (10) “Obligor” means the person who owes a duty of support to a child or the child’s parent or caretaker.
- (11) “Overdue support” means for purposes of this Chapter, any occasion on which the full amount of ordered support for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent spousal support would be included for the purposes of 42 U.S.C. § 654(4), is not paid by the due date for arrears as defined in § 36-5-101(a)(5) unless an income assignment is in effect and the payer of income is paying pursuant to § 36-5-101(g). “Overdue support” shall include all amounts of support that are in arrears as defined in § 36-5-101(a)(5) and that remain unpaid by the obligor at the time the lien is perfected or which become due as arrears subsequent to the perfection of the lien.
- (12) “Past-due” support shall have the same meaning as “overdue support”.
- (13) “Register” or “Register of Deeds” means the county official whose office is responsible for the recording of documents and other information relative to real property transactions, liens on property, and other documents as set forth by law.
- (14) “Secretary of State’s Division of Business Services” means the Division of the Department of State which, among other records responsibilities, files and maintains records of financing statements on secured transactions under the Uniform Commercial Code (UCC), as well as amendments, releases, assignments, continuations and terminations, and information about and copies of filed documents.
- (15) “TACSLR” means the Tennessee Automated Child Support Lien Registry operated by the Department of Human Services containing data and functions through an internet based application for the recording by that application, or, if determined appropriate, in the offices of the Registers of Deeds, the Office of the Secretary of State, and other appropriate locations, of any information to establish and perfect liens on the real and personal property of support obligors.
- (16) “TCSES” means the Tennessee Child Support Enforcement System operated by the Department of Human Services containing data and functions for the recording of child or spousal support data and for collection, distribution, and disbursement of child and spousal support payments.
- (17) Title IV-D” means Title IV-D of the Social Security Act codified at 42 United States Code Annotated §§ 651, et seq. Title IV-D establishes the joint Federal/State child support enforcement program in effect in all states and territories of the United States. The Department of Human Services is the Title IV-D support enforcement agency for the State of Tennessee and through that program provides legal services for establishment, modification and enforcement in Title IV-D support cases. Title IV-D support cases include both the obligations which are owed to the State of Tennessee through the assignment of rights of Families First (welfare) recipients, and services provided to obligees who are not, or may never have been recipients of Families First or Aid to Families with Dependent Children, and who have applied for support services through the Department or its contractors. In addition, the Department is required by Federal regulations to provide services pursuant to Title IV-D to obligors who seek modifications of their support obligation or who may seek establishment of paternity.

Authority: T.C.A. §§4-5-202, 36-5-901 et seq.; §71-1-132; PL 104-193; 42 USC 654a (g) and (h), 42 USC 666(a)(4), 42 USC 666(c)(1)(G).

1240-2-6-.03

CRITERIA FOR RECORDING OF SUPPORT LIENS.

- (1) An individual will be submitted to the Tennessee Automated Child Support Lien Registry (TACSLR) for establishment of a support lien based upon the following criteria:

- (a) The individual has a Title IV-D support case being enforced by the Department of Human Services or its contractors, or by a Title IV-D agency in another state or United States territory. Tennessee is required to give full faith and credit to the support liens of other state or territorial Title IV-D agencies if those liens are filed in accordance with Tennessee procedures, and such other state or territorial agencies may utilize TACSLR for the recording of support liens from their respective jurisdictions.
 - (b) The individual must be in arrears as defined by TCA §36-5-501(b)(1)(G) in the minimum amount of Five Hundred Dollars (\$500.00) on the effective lien date. The obligor will remain on the lien registry until the arrearage balance is zero. The basis for the information to establish the lien shall be the data regarding child support arrears which are contained in TCSES or from information provided by Title IV-D agencies in other states or territories.
 - (c) The individual must have a verified Social Security number that is unique to that individual according to the records maintained in TCSES.
- (2) Once an obligor has been added to TACSLR, the individual will remain listed and the lien will remain effective against the obligor on TACSLR until the arrears balance shown on TACSLR has been paid in full.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 71-1-132; PL 104-193; 42 USC §§654a (g) and (h); 666(a)(4), 666(c)(1)(G).

1240-2-6-.04 LIEN NOTICES BY INTERNET ACCESS.

- (1) Access to Lien Information.
 - (a) The official information regarding the establishment of the liens provided for in this Chapter will be made available by the Department on the Internet by logging on to the State of Tennessee, Department of Human Services' home page at: <http://www.state.tn.us/humanserv/> .
 - (b) As determined appropriate by the Department, the information establishing a lien may also will appear on computer terminals located in the offices of each Register of Deeds in Tennessee and in the Office of the Secretary of State's Division of Business Services, and other appropriate locations. These terminals, if provided, will be established and maintained by the Department and will not the responsibility of the individual Register, the Secretary of State's office or other location for lien filings.
 - (c) The TACSLR screen will display the amount of the obligation for which the lien is effective. A toll-free customer service number will be available to allow inquiries about specific lien questions from the Department's state.
- (2) The official information regarding the establishment of the liens provided for in this Chapter which is effective on the Department's internet access site regarding the dates and amounts of the liens if also filed in the above offices will be the same in all offices where computer terminal access is made available in the Register of Deeds and in the Office of the Secretary of State's Division of Business Services or at other appropriate locations line.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 71-1-132; PL 104-193; 42 USC §§654 (a) and (g); 666(a)(4), 666(c)(1)(G).

1240-2-6-.05 EFFECTIVE DATE OF LIEN AND PRIORITIES.

- (1) When an individual has been placed on TACSLR, the computer screen shown by the Department's internet access site will designate the date and time the lien was effective, and this date and time, or "effective lien date", and, if

made available, in the local Register of Deeds and Secretary of State's Division of Business Services, and other appropriate locations as determined by the Department, will be the date and time when the lien is perfected against the obligor's real and personal property. This effective date of the lien will appear under the heading of "Effective Date/Time" on the first search screen.

- (2) The perfection of the lien on TACSLR, through the Department's internet access site, is notice to all affected persons or entities of the Department's lien against the obligor's real and personal property and will have state-wide effect on all real and personal property of the obligor who meets the criteria of Rule 1240-2-6-.03.
- (3) The lien provided by these rules is subject to the priorities and exceptions set forth in TCA §36-5-901(c) and (d) and as set forth in Chapter 1240-2-5-.05.

Authority: T.C.A. §§4-5-202, 36-5-901 et seq. 71-1-132; PL 104-193; 42 USC §654a (g) and (h), 666(a)(4), 666(c)(1)(G).

1240-2-6-.06 LIENBALANCES.

- (1) Any new arrears which become due on a previously perfected lien will be added to the lien obligation once a month on the first business day following the second weekend of each month, and will be perfected from the effective date of filing of the lien.
- (2) Any sums received for the obligation and paid through the central collection and distribution unit of the Department of Human Services will be credited during the batch process of TCSES overnight and credited to the lien registry on the next business day if properly identified. The new lien balance will appear on the lien screen the morning of the next business day after receipt.
- (3) Any sums received by the Department's lien registry unit by 2PM, Central Time, will be credited the same day if paid by certified check or through a check drawn on a licensed attorney's trust account.

Authority: T.C.A. §§4-5-202; 36-5-901 et seq.; 71-1-132; PL 104-193; 42 USC §§654a (g) and (h); 666(a)(4), 666(c)(1)(G).

1240-2-6-.07 RELEASES OF LIENS

- (1) When the balance has been satisfied, the "Release Date/Time" field on the TACSLR computer lien screen on the internet access site will show the date and time of release. This date will mark the effective release date of the lien payoff as of that date even if subsequent to that date a new arrears balance has accrued. The "Payoff" field(s) on the computer screen will show the actual amounts received to release the lien on the corresponding "Release Date/Time" field.
- (2) Payments received by the Department which affect the amount of the overdue support or which may eliminate the amount of overdue support, when paid through the central collection and distribution unit, are processed by the TCSES/TACSLR system on an overnight basis and are, therefore, credited and available only on the next business day. If, however, a release is required for the same day on which the payment is to be made, the funds to permit the release must be sent to the Department by an attorney trust account check, certified check, cashier's check, or money order and the information relative to the receipt of the payment must be received by the Department's state office staff before 2:00 PM Central Time.
- (3) Upon receipt of the payment of the amount of the lien, the information relative to the payment will be placed on the TACSLR lien screen and on the TCSES system.

- (4) Other procedures involving the release of liens are found at Chapter 1240-2-5-.12 of the Department’s rules.

Authority: *T.C.A. §§4-5-202; 36-5-901 et seq.; 36-5-907; 71-1-132; PL 104-193; 42 USC §§654a (g) and (h); 666(a)(4), 666(c)(1)(G).*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2001. (05-28)

**DEPARTMENT OF HUMAN SERVICES - 1240
ADMINISTRATIVE SERVICES DIVISION**

There will be hearings before the Tennessee Department of Human Services (“Department”) to consider the promulgation of rules for the Department pursuant to TCA §§ 4-5-201 et seq. and 71-3-501 et seq. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204, and will take place at Conference Room A, State Office Building, 531 Henley Street, Knoxville, Tennessee 37902 at 6:30 PM Eastern Daylight Time on Tuesday, July 24, 2001; and in the Second Floor Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 6:30 PM Central Daylight Time on Thursday, July 26, 2001; and in the Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee 38103 at 6:30 PM Central Daylight Time on Tuesday, July 31, 2001.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Doris Batey, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5570 (TDD)- (615) 532-8569.

For a copy of this notice of rulemaking hearing, contact: Lee Anne Bruce, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1240-9-1
ACCESS TO PUBLIC RECORDS OF THE DEPARTMENT OF HUMAN SERVICES**

NEW RULES

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1240-9-1-.01 PURPOSE AND SCOPE.

These rules are promulgated for the purpose of providing procedures to allow access to records of the Tennessee Department of Human Services that are subject to the Public Records Act, T.C.A. §§ 10-7-501 et seq., and are promulgated for the additional purpose of implementing and establishing fees to be charged for copies of records

1240-9-1-.02 DEFINITIONS.

- (1) "Commissioner" is the executive officer in charge of the Tennessee Department of Human Services.
- (2) "Commissioner's Designee" means Directors, Program Managers and/or Counselors of the Department of Human Services.
- (3) "Non-routine Copy" is a copy, whether of paper or of electronically stored data, which requires more than minimal staff assistance, i.e. odd or oversize pages, bound documents, and/or file searches or manipulation of electronically stored data.
- (4) "Public Record"
 - (a) "Public Record" means, for purposes of this Chapter, any record of the Department that is deemed to be open to inspection of the public pursuant to the provisions of the Tennessee Public Records Act, T.C.A. §§ 10-7-501 et seq., and as to court order and case law interpreting the Act.
 - (b) The term "Public Record" does not include any data in any record, or any portion of a record, that is protected as confidential or privileged pursuant to any State law or regulation, or Federal law or regulation, or that is protected as privileged under any statutory or common law privilege, any attorney work product or that is protected by the attorney/client or any other privilege, or the disclosure of which may be expected to reveal the name or location of a source that is protected by State or Federal law or regulation for the purpose of reporting of abuse, neglect or harm, or for the purpose of protecting any person from the threat of domestic violence.
- (5) "Record"
 - (a) The term "Record" includes, for purposes of this Chapter, any data and documents developed and maintained by the Department, or that have been received and are maintained by the Department, during the normal course of the business activities of the Department.
 - (b) "Records" subject to this Chapter may be maintained on paper, magnetically, or electronically, on a single computer or computer system, whether on disk, tape or otherwise.
- (6) "Routine Copy" is a paper copy of a record which, to be made, requires minimal staff assistance, i.e., pages which are either 8½ x 11 or 8½ x 14 which can be automatically printed from electronically stored records or which can be automatically fed into a standard copier. Any records, even if stored electronically, shall not be deemed routine copies if it is necessary to print the copies of the record by means of a separate screen-print for each individual page of the record.

1240-9-1-.03 PROCEDURES FOR REQUESTS.

- (1) A request for copies of public records shall be made during business hours of the Department from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
- (2) Requests may be made orally or in writing to the office of the Commissioner, or to any Department employee in the State, County, District or Regional Offices of the Department, and shall identify with reasonable specificity the record or set or system of records which is requested. Records requests will be processed on a first-come, first-served basis; provided, that the Commissioner, or the Commissioner's designee, may at anytime alter this provision when circumstances warrant.
- (3) Prior Review for Confidential, Privileged or Protected Material/Non-Routine Requests.
 - (a) Before providing access to the requested record, the Department's staff shall review the requested record or records, as quickly as reasonably possible, and consistent with the availability of appropriate staff and with regard to the scope of the records request, any requested record or records that it has reason to believe has or that may have confidential or privileged or otherwise protected material in the record in order to redact any such data or information prior to release of the record or portion of the record that is the subject of the Tennessee Public Records Act.
 - (b) Before providing access to any record, the Department shall also review, as quickly as reasonably possible, the requested records and make preliminary review of the scope, difficulty and costs for copies of, or for preparing any records, to determine if the request will require that "routine" or "non-routine" copies, as defined in Section 1240-9-1-.02, be provided.
 - (c) If the Department determines that none of the provisions of subparagraph (d) apply and access can otherwise be provided immediately, it shall do so. If the production of copies of the records is requested and the request involves the production of "routine" copies, it shall inform the requesting party and shall make such records available to the requesting party as soon as is reasonably possible.
 - (d) If it appears from the Department's assessment that access to or the record, or the system of records cannot be provided immediately because:
 1. Additional time is required to locate and retrieve the records because the records are not stored on the site or cannot be located;
 2. The record or records require redaction of confidential, privileged or otherwise protected material;
 3. The record is subject to current use as part of an on-going investigation and cannot be provided without interrupting or jeopardizing the investigation and/or its timeliness, or the unavailability of the record to the Department's staff will jeopardize the health, safety or welfare of the persons the investigation is intended to protect or persons involved in the investigation;
 4. A computer or computer system that contains the record is unable to be accessed, is undergoing maintenance or re-programming for any program purposes, and/or cannot be accessed without substantially interfering with the delivery of services to the public or without damage to the integrity, operability or functioning of any computer system;
 5. Production of the record or records will require development of a program to provide access to, or a readable format for access to, electronic sources of the record or records, and that such program or format do not currently exist; or

6. For any other reason, then the Department shall inform the requesting party of the assessment and the approximate time required and costs involved in complying with the request and a summary of the basis for the assessment.

1240-9-1-.04 COPY FEES.

- (1) Routine copies shall be charged at a rate of Ten Cents (\$0.10) per one-sided page.
- (2) Non-Routine paper copies shall be charged at a minimum of Forty Cents (\$0.40) per one-sided page.
- (3) Non-Routine electronic copies shall be charged at a minimum of Five Dollars (\$5.00) per floppy disk and Ten Dollars (\$10.00) per CD disk.
- (4) In his or her discretion, the Commissioner or the Commissioner's designee may charge an additional amount over and above the minimum amount for Non-Routine Copies, both paper and electronic, if deemed necessary to recover the Department's cost to produce and provide the requested public record. This additional charge may include, but is not limited to, a reasonable portion of the amount which the Department expends in gathering, posting, developing or consulting in regard to the requested data.
- (5) The Commissioner, or the Commissioner's designee, may permit the requesting party to supply the necessary equipment and supplies to make the requested copies where the records are housed or located for purposes of the records request, and all, or a portion, of the fees required by this Section may be waived by the Department, but no record shall be permitted to be removed from the Department's offices for this purpose without approval by the Commissioner or the Commissioner's designee. The Department may provide any personnel to observe the copying process permitted by this paragraph to protect the integrity of the records.

1240-9-1-.05 PAYMENT FOR COPIES.

Prior to copies being made, payment in full must be made to the Department, unless such payment shall be waived pursuant to Section .06 below. If paying by a check, the check shall be made payable to the Treasurer, State of Tennessee.

1240-9-1-.06 WAIVER OF FEES.

- (1) The Commissioner or the Commissioner's designee may waive the applicable fees for copies as defined above when the amount for such copies is equal to or less than One Dollar (\$1.00).
- (2) Waivers for Indigents.

If the Commissioner or the Commissioner's designee determines that the person who seeks copies of these public records is indigent or that the waiver would serve the public welfare, then the Commissioner or the Commissioner's designee may waive the applicable fees.

- (3) Unreasonable Requests.

Excessive or unreasonable requests for waivers, or requests that can be otherwise be reasonably construed as an attempt to avoid the intended compensation for copies that exceed One Dollar (\$1.00) as described in Paragraph (1), may be denied.

- (4) The Commissioner or the Commissioner's designee, may, in his or her discretion, provide copies of rules, policy, guidance documents, public reports, etc., without charge.

Authority: T.C.A. §§ 4-5-201 et seq.; § 71-1-105; §§ 10-7-503 and 10-7-506; *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998); *Op. Tenn. Atty. Gen. 01-021* (Feb. 8, 2001).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of May, 2001. (05-26)

BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Tennessee Board of Osteopathic Examination to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-9-101. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 15th day of August, 2001.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 1050-2-.02, Fees, is amended by deleting subparagraph (1) (i) in its entirety.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-9-101, and 63-9-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2001. (05-19)

BOARD OF RESPIRATORY CARE - 1330

There will be a hearing before the Tennessee Board of Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 2nd day of August, 2001.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 1330-1-.01, Definitions, is amended by deleting paragraphs (9) and (28) in their entirety, and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, and 63-27-104.

Paragraph (1) of Rule 1330-1-.22, ABG Endorsement, is amended by deleting the terms in parentheses “(RRT)” and “(CRTT)”.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, and 63-27-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of May, 2001. (05-03)

WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Salon A of the Holiday Inn, located at 970 South Jefferson Avenue, Cookeville, Tennessee, commencing at 9:00 a.m., on the 26th day of July, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids or 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 Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Donna Woodward, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1660-1-5
RULES AND REGULATIONS FOR FISHING****REPEAL**

Rule 1600-1-5-.02 Commercial fishing on Reelfoot Lake is repealed in its entirety.

Authority: T.C.A. §70-1-206.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of May, 2001. (05-23)

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WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

TEMPORARY SUSPENSION OF RULE 1660-2-7-.10 (7) TIMS FORD LAKE ("SLOW, NO-WAKE", USE OF WATER SKIS, SURFBOARD OR SIMILAR DEVICES PROHIBITED)

Pursuant to the authority granted by Tennessee Code Annotated, Section 69-10-209(b)(2) the Director of the Tennessee Wildlife Resources Agency in concurrence with the Tennessee Wildlife Resources Commission, hereby proclaims the temporary suspension of Rule 1660-2-7-.10 (7) as described below on the date and time shown; however, the temporary suspension shall apply only to participants in, and officials of, the Tims Ford Boating Safety Celebration. The "Slow, No Wake" zone and the prohibition related to water skis, surfboards or similar devices on Tims Ford Lake shall be suspended from 8:00 AM to 5:00 PM on Saturday May 12, 2001 in the vicinity of Winchester City Park on Boiling Fork Creek. Provisions have been made so that the public health, safety and welfare and the aquatic habitat shall be reasonably protected.

Proclamation No. 01-1 received and recorded this 18th day of May, 2001. (05-13)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 01-3 ESTABLISHING PRESIDENTS ISLAND WMA

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-1-302 and 70-5-101 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following area to be known as Presidents Island Wildlife Management Area.

Those lands and waters in the Mississippi River Flood Plain in southwest Shelby County owned by the City of Memphis and Shelby County Government and generally known as Presidents Island as posted. A more complete description may be found on file in the Registrar's office in Shelby County, Tennessee.

Proclamation No. 01-3 received and recorded this 16th day of May, 2001. (05-09)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660**PROCLAMATION 01-10
PROCLAIMING CYPRESS POND REFUGE**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, Section 70-1-206, the Tennessee Wildlife Resources Commission hereby proclaims the following area a wildlife refuge to be known as the Cypress Pond Refuge:

Those lands and waters west of the Tennessee River in Decatur County, being the area known as Cypress Pond Wetland and purchased pursuant to the Wetlands Acquisition Act as posted. A more complete description may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

Proclamation No. 01-10 Received and recorded this 18th day of May, 2001. (05-12)



CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning May 1, 2001 and ending May 31, 2001.

A handwritten signature in black ink, appearing to read "Riley C. Darnell".

RILEY C. DARNELL
Secretary of State

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