RULES
OF
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF INSURANCE

0780-01-05
UNFAIR CLAIMS SETTLEMENT PRACTICES

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0780-01-05-.01 PURPOSE.

The purpose of this Chapter is to set forth minimum standards for the investigation and disposition of claims arising under contracts or certificates of insurance issued to residents of the state. It is not intended to cover claims involving workers' compensation or health care. The various provisions of this Chapter are intended to define procedures and practices which constitute unfair claims practices as determined by the commissioner. Nothing herein shall be construed either to create or to imply a private cause of action for violation of this Chapter.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-101(c), 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.02 SCOPE.

This Chapter applies to all insurers or persons subject to title 56, chapter 8, part 1, that are authorized to sell, transact, or are otherwise engaged in the business of insurance in this state. Specifically, rules 0780-01-05-.06 through .10 only apply to property and casualty insurers doing business in this state. Rule 0780-01-05-.11 only applies to life insurers doing business in this state.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.03 AUTHORITY.

This Chapter is issued pursuant to the authority vested in the commissioner pursuant to T.C.A. §§ 56-8-108 and 56-8-110, the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, T.C.A. title 56, chapter 8, part 1, and other authority conferred by the insurance laws of Tennessee to regulate lines of insurance.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.04 DEFINITIONS.

All definitions contained in the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, T.C.A. title 56, chapter 8, part 1, are hereby incorporated by reference. As otherwise used in this Chapter, the following definitions apply unless otherwise specifically defined herein:

(1) “Beneficiary” means the party entitled to receive the proceeds or benefits occurring under the policy of the insured;

(2) "Claim" means:

(a) 1. An oral, written, or electronic submission for payment that is filed by an insured, on behalf of an insured, or by a third party where the insurer accepts such claims, in accordance with the insurer's reasonable submission standards; and

2. Is sufficient to reasonably establish contractual liability for payment on the part of the insurer;

(b) For the purposes of T.C.A. § 56-8-105, a “claim” does not mean an inquiry by an insured as to the existence of coverage or how a potential claim may affect future premiums or renewability of coverage;

(3) “Claim file” means any retrievable electronic file, paper file, or combination of both, relative to a specific claim made by or on behalf of a claimant with an insurer;

(4) “Commissioner” means the commissioner of the department of commerce and insurance;

(5) “Days” means calendar days unless otherwise noted;

(6) “Department” means the department of commerce and insurance;

(7) “Documentation” or “to be documented” includes, but is not limited to, all pertinent communications, transactions, notes, work papers, claim forms, bills and explanation of benefits forms relative to the claim;

(8) “First party claimant” means an individual, corporation, association, partnership or other legal entity asserting a right to payment directly against an insurer under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by the policy or contract;

(9) “Inquiry” means any communication to an insurance company by an insured or by an insurance producer on behalf of an insured, regarding general terms and conditions of the insured’s personal residential property policy, including a communication concerning whether an insured’s personal residential property policy provides coverage for a type of event or the process for filing a claim;

(10) “Insurance producer” or “producer” means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance under title 56, chapter 6, part 1;

(11) “Investigation” means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract;

(12) “Notification of claim” or “notice of claim” means any notification, in writing or other means acceptable under the terms of an insurance policy, to an insurer or its producer by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim;

(Rule 0780-01-05-.04, continued)

(13) "Personal residential property policy" means a homeowners insurance policy or a policy otherwise described in T.C.A. §§ 56-5-102(7)(A) and (B);

(14) "Proof of loss" means written proofs, such as claim forms, or other reasonable evidence of the claim that is required of insureds or beneficiaries submitting the claims;

(15) "Reasonable explanation" means information sufficient to enable the insured or beneficiary to compare the allowable benefits with policy provisions and determine whether proper payment has been made;

(16) "Third party claimant" means any person asserting a claim against any person under a policy or certificate of an insurer; and

(17) "Written communication" includes all correspondence, regardless of source or type, that is materially related to the handling of the claim. Written communication also includes electronic mail (email) when requested by the claimant and when accepted by the insurer. Written communication does not include any privileged communication that is prepared by an attorney employed or retained by an insurer, including, but not limited to, work product or legal opinions.

Authority: *T.C.A. §§ 56-2-301, 56-5-302(7)(A) and (B), 56-6-102, 56-7-3403, 56-8-101 through 56-8-120, 56-8-102, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.05 FILE AND RECORD DOCUMENTATION.

Each insurer's claim files for policies or certificates are subject to examination by the commissioner or his or her duly appointed designees. To aid in such examination:

(1) The insurer shall maintain claim data that is accessible and retrievable for examination. An insurer shall be able to provide the claim number, line of coverage, date of loss, date of payment of the claim, date of denial or date closed without payment. This data must be available for all open and closed claim files for the current year and the five (5) preceding years.

(2) Documentation shall be contained in each claim file in order to permit reconstruction of the insurer's activities relative to each claim.

(3) Each relevant document within the claim file shall be noted as to date received, date processed, or date mailed.

(4) For those insurers that do not maintain hard copy files, claim files must be accessible from cathode ray tube (CRT), micrographics, magnetic tape, electronic databases, or other electronic storage formats, and be capable of duplication to hard copy.

Authority: *T.C.A. §§ 56-1-103, 56-1-106, 56-1-408, 56-1-409, 56-1-410, 56-2-301, 56-8-101 through 56-8-120, 56-8-104(10), 56-8-107, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.06 MISREPRESENTATION OF POLICY PROVISIONS.

(1) No insurer shall fail to fully disclose, upon request, to first party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.

(Rule 0780-01-05-.06, continued)

(2) No producer shall misrepresent to named insureds benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

(3) A claim shall not be denied on the basis of failure to provide access to property unless provided for under the terms of the policy and documented in the claim file.

(4) No insurer shall deny a claim based upon the failure of a first party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition.

(5) No insurer shall indicate to a first party claimant on a payment draft, check, or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first party claimant and the insurer as to coverage and amount payable under the contract.

(6) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage that contains language purporting to release the insurer or its insured from total liability.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-104, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.07 FAILURE TO ACKNOWLEDGE PERTINENT COMMUNICATIONS.

(1) Every insurer, upon receiving notification of a claim, shall, within thirty (30) days, acknowledge the receipt of such notice unless payment is made within that period of time. If an acknowledgement is made by means other than writing, an appropriate notation of the acknowledgement shall be made in the claim file of the insurer and dated.

(2) Pursuant to T.C.A. § 56-1-106, if the department makes a request for information from an insurer concerning a complaint filed against the insurer, the insurer must respond to the request within thirty (30) days from the date the request is received by the insurer.

(3) An appropriate reply shall be made within thirty (30) days on all other pertinent communications from a first party claimant which reasonably suggest that a response is expected.

(4) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within thirty (30) days of notification of a claim shall constitute compliance with paragraph 0780-01-05-.07(1).

Authority: *T.C.A. §§ 56-1-106, 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.08 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO PROPERTY AND CASUALTY INSURERS.

(1) Within sixty (60) days after receipt by the insurer of properly completed and executed proofs of loss and such information or documents required under the policy, the first party claimant shall be advised of the acceptance or denial of liability for the claim by the insurer. No insurer shall deny a claim without providing a basis for the denial. Upon request, any denial must be given to the first party claimant in writing and the claim file of the insurer shall contain documentation of the denial as required by rule 0780-01-05-.05.

(Rule 0780-01-05-.08, continued)

(a) Where there is a reasonable basis supported by specific information available for review by the department that the first party claimant has fraudulently caused, contributed to, or misrepresented the loss, the insurer is relieved from the requirements of paragraph 0780-01-05-.08(1); provided, however, that the first party claimant shall be advised of the acceptance or denial of liability for the claim within a reasonable time for full investigation after receipt by the insurer of a properly completed and executed proof of loss.

(2) If the insurer needs more time to determine whether liability for a first party claim should be accepted or denied, it shall so notify the first party claimant within sixty (60) days after receipt of the proofs of loss and such information or documents required under the policy, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, sixty (60) days from the initial notification and every sixty (60) days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for investigation.

(a) Where there is a reasonable basis supported by specific information available for review by the department for suspecting that the first party claimant has fraudulently caused, contributed to, or misrepresented the loss, the insurer is relieved from the requirements of paragraph 0780-01-05-.08(2); provided, however, that the claimant shall be advised of the acceptance or denial of liability for the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly completed and executed proof of loss.

(3) The insurer shall, within thirty (30) days after concluding a coverage investigation, notify the first party claimant of the findings of the investigation. Paragraphs 0780-01-05-.08(1) and (2) shall apply at the time the notice of investigation closure is sent.

(4) Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

(5) Insurers shall give notice of an applicable statute of limitations to first party claimants at least thirty (30) days before the date on which such statute of limitations may expire.

(6) The insurer shall tender payment within thirty (30) days of affirmation of liability, if the amount of the claim is determined and not in dispute, unless the policyholder does not want payment within thirty (30) days.

(7) No insurer shall request or require any insured to submit to a polygraph examination unless authorized under the applicable insurance contracts and state law.

(8) If, after an insurer denies a claim in its entirety, the first party claimant objects in writing to such denial, the insurer shall notify the first party claimant in writing that he or she may file a complaint with the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or may submit the complaint request for review electronically to that section's complaint link for insurance complaints, currently found at: https://tn.gov/commerce/topic/commerce-file-a-complaint.

(9) An insurer shall notify a policyholder of his or her right to choose a vendor to complete repairs of damages covered under the policy, unless use of a specified vendor is provided pursuant to the terms of the policy. If a notice is made by means other than writing, an appropriate notation of the notice shall be made in the claim file of the insurer and dated.

(10) No insurer shall cancel a personal residential property policy in effect for sixty (60) days or more, if the sole reason for the cancellation of the policy is that a claim is pending with the insurer.

(Rule 0780-01-05-.08, continued)

(11) Pursuant to T.C.A. § 56-7-113, no insurance company shall increase a premium or cancel a personal residential property policy solely on the basis of an inquiry or inquiries by an insured regarding the insured's personal residential property policy or a loss under the policy.

Authority: *T.C.A. §§ 56-2-201, 56-2-202, 56-2-301, 56-7-113, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.09 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO AUTOMOBILE INSURANCE.

(1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods shall apply at the discretion of the insurer:

(a) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection at a licensed dealer within a reasonable distance of the insured's residence. The insurer shall pay all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile, paid at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be derived from:

1. The cost of two or more comparable automobiles in the local market area when comparable automobiles are available or were available within the last ninety (90) days to consumers in the local market area; or

2. The cost of two (2) or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last ninety (90) days to consumers when comparable automobiles are not available in the local market area pursuant to part 0780-01-05-.09(1)(b)1. above; or

3. One (1) of two (2) or more quotations obtained by the insurer from two (2) or more licensed dealers located within the local market area when the cost of comparable automobiles are not available pursuant to parts 0780-01-05-.09(1)(b)1. and (1)(b)2. above; or

4. Any source for determining statistically valid fair market values that meet all of the following criteria:

(i) The source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area;

(ii) The source's database shall produce values for at least eighty-five percent (85%) of all makes and models for the last fifteen (15) model years, taking into account the values of all major options for such vehicles; and

(Rule 0780-01-05-.09, continued)

(iii) The source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters (such as time and area) to assure statistical validity.

(c) When a first party claimant's automobile total loss is settled on a basis which deviates from the methods described in subparagraphs 0780-01-05-.09(1)(a) and (1)(b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from the cost, including deduction for salvage, must be as specific as reasonably possible, and specific and appropriate as to dollar amount, and shall be documented in the claim file as required by rule 0780-01-05-.05. The basis for the settlement shall be fully explained to the first party claimant.

(2) Insurers shall not require a first party claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

(3) Insurers shall, upon the first party claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.

(4) Vehicle Repairs. If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner. If the insured subsequently claims, based upon a written estimate which he or she obtains, that necessary repairs will exceed the written estimate prepared by or for the insurer, and differences remain unresolved during the course of the repair or negotiation process, the insurer shall:

(a) Pay the difference between the written estimate and a higher estimate obtained by the insured; or

(b) Promptly provide the insured with the name of at least one (1) repair shop in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that will make the repairs for the amount of the written estimate, not considering the cost of supplemental or additional repairs which may be uncovered as part of the repair process. The insurer shall assure that such repairs provided by such repairers designated by the insurer are performed in a workmanlike manner. The insurer shall maintain documentation of all such communications. If such communication is made by means other than writing, an appropriate notation of the communication shall be made in the claim file of the insurer and dated.

(5) When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. The deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

(6) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

(Rule 0780-01-05-.09, continued)

(7) Towing. Unless the insurer has provided an insured with the name of a specific towing company or provides a roadside assistance program, prior to the insured's use of another towing company, the insurer shall pay any and all reasonable towing charges irrespective of the towing company used by the insured, subject to any applicable policy provisions.

(8) Storage. The insurer shall provide reasonable notice to an insured prior to termination of payment for reasonable automobile storage charges and documentation of the denial as required by rule 0780-01-05-.05. Such insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment, subject to any applicable policy provisions.

(9) Betterment deductions are allowable only if the deductions:

(a) Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle;

(b) Any deductions set forth in subparagraph 0780-01-05-.09(9)(a) above must be measurable, itemized, specified as to dollar amount, and documented in the claim file; and

(c) No insurer shall require the insured or first party claimant to supply parts for replacement.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.10 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO FIRE AND EXTENDED COVERAGE TYPE POLICIES WITH REPLACEMENT COST COVERAGE.

(1) When the policy provides for the adjustment and settlement of first party losses based on replacement cost, the following shall apply:

(a) When a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacement not otherwise excluded by the policy, shall be included in the loss. The insured shall not have to pay for any cost except for betterment and any applicable deductible under the policy.

(b) When a loss requires replacement of items and the replaced items do not match in quality, color or size, the insurer shall replace items so as to conform to a reasonably uniform appearance according to the applicable policy provisions. This applies to interior and exterior losses. The insured shall not bear any cost over the applicable deductible, if any.

(2) Actual Cash Value:

(a) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash value as follows: replacement cost of property at time of loss less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of the claim file worksheets detailing any and all deductions for depreciation.

(b) In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value as set forth above is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

(Rule 0780-01-05-.10, continued)

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.11 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO ALL LIFE INSURERS.

(1) Every insurer, upon receiving due notification of a claim filed, shall, within thirty (30) days of the notification, provide necessary claim forms, instructions and reasonable assistance so the first party claimant can properly comply with company requirements for filing a claim.

(2) Upon receipt of proof of loss from a first party claimant, the insurer shall begin any necessary investigation of the claim within thirty (30) days.

(3) The insurer's standards for claims processing shall be such that notice of claim or proof of loss submitted against one policy issued by that insurer shall fulfill the insured's obligation under any and all similar policies issued by that insurer and specifically identified by the insured to the insurer to the same degree that the same form would be required under any similar policy. If additional information is required to fulfill the insured's obligation under similar policies, the insurer may request the additional information. When it is apparent to the insurer that additional benefits would be payable under an insured's policy upon additional proofs of loss, the insurer shall communicate to and cooperate with the insured in determining the extent of the insurer's additional liability. Life insurers shall also operate in accordance with T.C.A. §§ 56-7-3401 through 56-7-3406 by searching for persons as defined in T.C.A. § 56-7-3403(8) against the social security death master file (DMF) and notifying beneficiaries about potential claims such persons may have against the company.

(4) The insurer shall affirm or deny liability on claims within a reasonable time and shall offer payment within thirty (30) days of affirmation of liability if the amount of the claim is determined and not in dispute. If portions of the claim are in dispute, the insurer shall tender payment for those portions that are not disputed within thirty (30) days.

(5) If a claim remains unresolved for sixty (60) days from the date proof of loss is received, the insurer shall provide the insured or, when applicable, the insured's beneficiary, or the insurance producer or other designated representative responsible for communicating with the beneficiary, with a reasonable explanation for the delay. If the investigation remains incomplete, the insurer shall, sixty (60) days from the date of initial notification and every sixty (60) days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

(6) The insurer shall acknowledge and respond within thirty (30) days to any written communications relating to a pending claim.

(7) When a claim is denied, written notice of denial shall be sent to the first party claimant within thirty (30) days of the determination. The insurer shall reference the policy provision, condition or exclusion upon which the denial is based.

(8) No insurer shall deny a claim upon information obtained in a telephone conversation or personal interview with any source unless the telephone conversation or personal interview is documented in the claim file.

(9) No insurer shall indicate to a first party claimant on a payment draft, check or in any accompanying letter that said payment is "final" or "a release" of any claim unless the policy limit has been paid or there has been a compromise settlement agreed to by the first party claimant and the insurer as to coverage and amount payable under the policy.

(Rule 0780-01-05-.11, continued)

(10) Pursuant to T.C.A. § 56-1-106, if the department makes a request for information from an insurer concerning a complaint filed against the insurer, the insurer must respond to the request within (30) days from the date the request is received by the insurer.

(11) If, after an insurer denies a claim in its entirety, the first party claimant objects in writing to such denial, the insurer shall notify the first party claimant or their legally authorized representative in writing that he or she may file a complaint with the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or may submit the request for review electronically to that section's website, currently found at: https://tn.gov/commerce/topic/commerce-file-a-complaint.

Authority: *T.C.A. §§ 56-1-106, 56-2-301, 56-7-3401 through 56-7-3406, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.12 STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENTS APPLICABLE TO CLAIMS MADE BY THIRD PARTY CLAIMANTS.

Upon receipt of notice or notification of a claim or potential claim from a third party claimant, the insurer shall notify the third party claimant in writing that he or she may obtain information regarding any actions available to a third party claimant by contacting the department, Consumer Insurance Services, 500 James Robertson Parkway, Nashville, Tennessee 37243, 1-800-342-4029, or electronically to that section's website, currently found at: https://tn.gov/commerce/topic/commerce-file-a-complaint.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-105, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.13 PENALTIES.

Violations of this Chapter shall be enforced against any person subject to the Tennessee Unfair Trade Practices and Unfair Claims Settlement Act of 2009, T.C.A. title 56, chapter 8, part 1, as provided therein, and any other applicable enforcement authority conferred by the insurance laws of Tennessee related to or incorporating violations of that Act, rules promulgated by the commissioner, or the subject matter addressed by this Chapter, including, but not limited to, T.C.A. §§ 56-2-305, 56-6-112, 56-6-410, 56-6-910, 56-7-3405, 56-8-103, 56-8-109, 56-8-111.

Authority: *T.C.A. §§ 56-2-301, 56-2-305, 56-6-112, 56-6-410, 56-6-910, 56-7-3405, 56-8-101 through 56-8-120, 56-8-103, 56-8-108, 56-8-109, 56-8-110, and 56-8-111.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.14 SEVERABILITY.

If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a court, the remainder of the Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.15 WAIVER.

(1) Unless otherwise required by law, in the event of a catastrophic occurrence, as determined by the commissioner, in the State of Tennessee, the commissioner may waive the rules arising from, or otherwise affected by, the catastrophic occurrence as he or she deems necessary.

(Rule 0780-01-05-.15, continued)

(2) The commissioner may waive these rules at his or her discretion in the event an insurer cannot comply or lacks the means to comply with these rules, unless statute mandates that no exception may be granted.

Authority: *T.C.A. §§ 56-2-301, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*

0780-01-05-.16 EFFECTIVE DATE.

Insurers shall meet the requirements of this Chapter within six (6) months after the effective date of this Chapter. Policies, forms, and rates on file with the department must comply with this Chapter within six (6) months after the effective date of this Chapter. In the event a policy in existence six (6) months after the effective date of this Chapter does not comply, the policy may run through the end of its term, but it may not be renewed without first making the policy comply with this Chapter.

Authority: *T.C.A. §§ 56-2-301, 56-2-305, 56-5-305, 56-7-2311, 56-8-101 through 56-8-120, 56-8-108, and 56-8-110.* ***Administrative History:*** *Original rules filed July 11, 2017; effective October 9, 2017.*