

**RULES
OF
THE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF INSURANCE**

**CHAPTER 0780—1—49
RELATING TO GOVERNMENTAL TORT LIABILITY**

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0780—1—49—.01 PURPOSE. The purpose of this rule is to require all government entities, creating and maintaining funds for the purposes set forth in T.C.A. §29—20—401, to maintain adequate reserves to pay all claims arising against such funds.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.

0780—1—49—.02 DEFINITIONS. As used in this rule, unless the context otherwise requires:

- (1) “Fund” means any accumulation of assets, by pooling arrangements, for the purpose of making payment of claims pursuant to T.C.A. §29—20—401.
- (2) “Reserves” means all amounts necessary to discharge the claims obligations of any fund created pursuant to T.C.A. §29—20—401, including losses reported, losses incurred but not reported and all loss adjustment expenses.
- (3) “Commissioner” means the Commissioner of Insurance.
- (4) “State” means the State of Tennessee.
- (5) “Annual Report” means an annual financial statement which includes a balance sheet, summary of operations, schedule necessary to identify and enumerate the cash, stocks, bonds, real estate or other assets held by the fund, and a summary of all outstanding loss reserves and loss expense reserves by opinion of an independent casualty actuary.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981. Amendment filed February 8, 1984; effective March 9, 1984.

0780—1—49—.03 SCOPE. This rule shall apply to any and all governmental entities jointly creating such a fund, if such fund is created pursuant to T.C.A. §§29—20—401 and 12—9—101 et seq.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.

0780—1—49—.04 POOLING AGREEMENT. All pools formed pursuant to T.C.A. §29—20—401 shall have formal pooling agreements which contain all provisions specified by T.C.A. §12—9—104. Such agreements shall also be approved by the Attorney General of the State of Tennessee as provided for by T.C.A. §12—9—104. All pooling agreements made and entered into pursuant to T.C.A. §29—20—401 or all plans, agreements or contracts between the pool and the governmental entities participating therein shall contain provisions which require all governmental entities participating in or benefiting from said pooling agreement to remain liable for their proportionate share of all losses incurred by the pool during their membership or participation in the pool, regardless of their withdrawal from, or the complete termination of, the pooling agreement.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.

0780—1—49—.05 ANNUAL REPORT.

- (1) The manager, administrator or director of all such funds shall file on or before sixty (60) days following the close of each fiscal year a report, under oath, to the Commissioner for such fiscal year showing the financial condition of the fund and shall, at any and all times, furnish such additional information and reports as may be required. Such Annual Report shall contain a summary of all outstanding reserves maintained by the fund, segregated by member, and by lines of business including but not limited to general and professional liabilities under the unemployment compensation law, and motor vehicle insurance. The summary of all outstanding loss and loss expense reserves shall be accompanied by opinion of an independent casualty actuary and such opinion shall be responsive to but not limited to the following:
 - (a) Are the loss and loss expense reserves computed in accordance with accepted loss reserving standards and are they fairly stated in accordance with sound loss reserving principles?
 - (b) Are the loss and loss expense reserves based on factors relevant to the policy provisions issued by the pool?
 - (c) Are the loss and loss expense reserves calculated to make good and sufficient provision for unpaid losses and loss expense obligations of the pool under the terms of its policies and agreements?

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981. Amendment filed February 8, 1984; effective March 9, 1984.

0780—1—49—.06 ADEQUACY OF RESERVES. There shall at all times be maintained a sum in cash, or in other assets (approved by the Commissioner) an amount sufficient to discharge all liabilities on all outstanding losses arising under all risks assumed by the pool, the same to be calculated in accordance with the Statutes and Rules of the State relating to similar reserves for companies insuring similar risks, with due consideration given to other Statutes as they relate to Governmental Tort Liability.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.

0780—1—49—.07 REINSURANCE FOR RESERVES. No amount shall be deducted from the fund's reserves for reinsurance, unless such reinsurer is licensed in the state.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.

0780—1—49—.08 EXAMINATIONS OF THE RESERVE FUND. Representatives of the Commissioner shall cause an examination of the reserve fund of any pool to be made as often as is necessary to verify the adequacy of the fund. Any pool examined under the provisions of this rule shall pay the proper charges incurred in such examination as prescribed under T.C.A. §56—1—413.

Authority: T.C.A. §§29—20—401 and 12—9—101. *Administrative History:* Original rule filed March 9, 1981; effective April 23, 1981.