

**RULES
OF
THE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
STAFF LEASING COMPANIES**

**CHAPTER 0780-5-8
STAFF LEASING COMPANIES**

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0780-5-8-.01 PURPOSE.

The purpose of this chapter is to provide for the administration and implementation of the Tennessee Employee Leasing Act.

Authority: T.C.A., 62-43-104(a). *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.02 DEFINITIONS.

- (1) As used in this chapter, unless the context otherwise requires, the definitions of terms contained in T.C.A., 63-43-103 are applicable. Additional definitions are listed as follows:
 - (a) Conviction shall mean the entry of a guilty plea of any kind, a plea of nullo contendere, or a verdict rendered in open court by a judge or jury.
 - (b) Act shall mean the Tennessee Employee Leasing Act.

Authority: T.C.A., §§62-43-103 and 62-43-104(a). *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.03 APPLICATIONS.

- (1) An applicant shall file with the commissioner a completed application on a form prescribed and furnished by the commissioner. An application shall be accompanied by such forms, materials and information that are necessary to enable the commissioner to ascertain if an applicant meets the requirements to obtain a license. An applicant shall also file with the completed application the application fee specified in rule 0780-5-8-.07 of these rules.
- (2) An applicant shall disclose any criminal conviction, except for minor traffic and driving under the influence of a controlled substance convictions, on the application form. If an applicant is a corporation, partnership or limited liability corporation, any convictions of any controlling person shall be disclosed on the application. The required disclosure shall include a complete explanation of the circumstances surrounding the offense, the sentence imposed, and whether any imposed probation has been successfully completed. An applicant shall also provide any indictment or information and any resulting plea agreements and any other documentation related to any such conviction. An applicant must submit a notarized statement from the court(s) having jurisdiction of the conviction(s) that the aforementioned documentation is unavailable if this documentation cannot be provided.
- (3) Failure to disclose a criminal conviction on the application shall be a basis for the denial of the application.

- (4) An applicant shall submit the financial information required by T.C.A., §62-43-108(b)(3) at the time of application unless an applicant indicates on the application the desire to furnish such information upon being notified in writing that all other requirements to obtain a license have been met. An applicant who opts to provide the financial information upon such written notification by the commissioner shall provide the required information within fifteen (15) days of the date appearing on the written notification from the Commissioner. Failure to provide the information within the required period of time may result in the denial of the application for a license.
- (5) A nonresident applicant for a license shall pay the same application fee as an applicant who is a resident of this state.
- (6) A nonresident applicant for a license shall submit with an application either:
 - (a) a copy of a current license to engage in staff leasing issued by the applicant's state of residence or domicile and a notarized statement from the state which issued the applicant's license to the effect that the applicant is in good standing;
 - (b) a notarized statement by the applicant to the effect that no license is required by the applicant's state of domicile or residence to engage in staff leasing; or
 - (c) a notarized statement by the applicant to the effect that the applicant is not licensed in its state of residence or domicile due to the fact that the applicant does not engage in staff leasing in that state.
- (7) A nonresident applicant for a restricted license shall submit with the application:
 - (a) a notarized statement of the applicant to the effect that the applicant does not maintain an office in this state, and does not maintain a sales force or have a sales representative in this state, and has leased no more than one hundred (100) leased employees in this state and will lease no more than one hundred (100) employees in this state without obtaining an unrestricted license; and
 - (b) either a copy of the applicant's current license to engage in staff leasing issued by the applicant's state of domicile or residence and a notarized statement from the applicant's state of domicile to the effect that the applicant is in good standing or a notarized statement by the applicant that no license is required by the applicant's state of domicile or residence to engage in staff leasing in that state.
- (8) An applicant shall respond promptly to all requests of the commissioner for further information. Failure to provide requested information within thirty (30) days of a request of the commissioner shall be grounds for the denial of an application.

Authority: T.C.A., §§62-43-104(a), 62-43-108, 62-43-109, and 62-43-113(b)(3). *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.04 RENEWAL.

- (1) A license issued under this part shall expire two (2) years from the date of issuance.
- (2) At least thirty (30) days prior to the expiration of its license, a licensee shall submit an application for renewal of the license on a form prescribed by the commissioner and accompanied by a nonrefundable renewal fee. The application for renewal shall contain a sworn and notarized statement that the licensee is in compliance with all the requirements of T.C.A., §§62-43-108, 62-43-109 and 62-43-113 through 62-43-120 and the rules promulgated thereunder. The application shall be accompanied by the financial information required by T.C.A., §62-43-108 (except where such information was not required to obtain an initial license).

- (3) A licensee shall provide all information requested by the commissioner to ascertain whether the licensee meets the qualifications to obtain a renewal. Failure to provide further information within thirty (30) days of a request by the commissioner shall be grounds for the denial of an application for renewal.

Authority: T.C.A., 62-43-104(a), 62-43-108(a) and 62-43-110. *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.05 DUTIES AND RESPONSIBILITIES.

- (1) A licensee shall abide by the dictates of T.C.A.,62-43-113.
- (2) Prior to providing any employee to a client, a licensee shall provide to the commissioner a certificate(s) of insurance or other appropriate documentation from an insurance company showing that all employees leased by the licensee in this state are covered by worker's compensation in accordance with the laws of this state.
- (3) A licensee shall notify the commissioner in writing within thirty (30) days of any conviction of the licensee or any of the licensee's controlling persons for any offense listed in T.C.A., 62-43-115(a)(1)-(5), and (13). The notification shall include certified copies of the indictment and/or the information, any plea agreements and any judgments rendered by a judge or jury.
- (4) A licensee shall notify the commissioner in writing within thirty (30) days of a material final action by a state or federal regulatory agency for violations within the scope of control of the licensee. Such notification shall include certified copies of documentation evidencing the final action taken by the agency.
- (5) A licensee shall notify the commissioner in writing within thirty (30) days of any determination by any court of competent jurisdiction, including federal courts, located in any state, that the licensee was found guilty of civil fraud. Such notification shall include copies of the complaint, the licensee's answer, and the final order rendered by a court.

Authority: T.C.A., §§ 62-43-104(a), 62-43-112(a)(5), 62-43-113 and 62-43-115. *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.06 DECEPTIVE PRACTICES.

- (1) No licensee shall engage in any of the deceptive practices set out in T.C.A., §§ 62-43-114.
- (2) No licensee shall represent that the licensee's business or activity has been recommended or endorsed by the commissioner.

Authority: T.C.A., §§62-43-104(a) and 62-43-114. *Administrative History:* Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.07 FEES.

- (1) An applicant for a license shall submit with an application the appropriate application fee listed below:
 - (a) Staff leasing company \$ 250.00
 - (b) Staff leasing group \$ 250.00
 - (c) Restricted staff leasing company \$ 100.00
 - (d) Restricted staff leasing group \$ 250.00

- (2) Unless otherwise provided by law, an applicant shall submit, upon being notified of the approval of his or her application by the commissioner, the appropriate license fee listed below:
 - (a) Staff leasing company license \$2,000.00
 - (b) Staff leasing group license \$4,000.00
 - (c) Restricted staff leasing company license \$ 500.00
 - (d) Restricted staff leasing group license \$1,000.00
- (3) Unless otherwise provided by law, an applicant for renewal of a license shall submit with an application the appropriate fee listed below:
 - (a) Staff leasing company \$2,000.00
 - (b) Staff leasing group \$4,000.00
 - (c) Restricted staff leasing company \$ 500.00
 - (d) Restricted staff leasing group \$1,000.00
- (4) To obtain a duplicate license, a licensee shall submit a fee of twenty-five dollars (\$25.00) to the commissioner.

Authority: T.C.A., §§62-43-104(a), 62-43-110 and 62-43-111. **Administrative History:** Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.08 INVESTIGATIONS AND COMPLAINTS.

- (1) The commissioner may investigate any person engaged or suspected of engaging in any business activity regulated under the act.
- (2) Upon receipt of any written complaint, the commissioner may transmit a copy of such complaint to the accused party. Such party shall, within fourteen (14) days of receiving the copy of the complaint, file a written response to the complaint with the commissioner.

Authority: T.C.A., §§ 62-43-104(a) and 62-43-117(a). **Administrative History:** Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.09 CIVIL PENALTIES.

With respect to any person required to be licensed under the act, the commissioner may in addition to or in lieu of any other lawful disciplinary action assess a civil penalty in the amounts specified by T.C.A., §§62-43-115(b)(3) and 62-43-116(a) against such person for each occurrence constituting a separate violation of the act or rules promulgated thereunder.

Authority: T.C.A., §§ 62-43-104(a), 62-43-115(b), and 62-43-116(a). **Administrative History:** Original rule filed April 17, 1996; effective July 1, 1996.

0780-5-8-.10 CONTESTED CASES.

All contested cases arising under the Act and these rules shall be governed by T.C.A., §4-5-301, et seq. and Chapter 1360-4-1 of the Secretary of State's Rules, which is titled, Uniform Rules of Procedures for Hearing Contested Cases Before State Agencies.

Authority: T.C.A., §§ 4-5-219 and 62-43-104(a). **Administrative History:** Original rule filed April 17, 1996; effective July 1, 1996.