

Notice of Rulemaking Hearing
Department of Commerce and Insurance
Insurance Division

There will be a hearing before the Insurance Division of the Department of Commerce and Insurance (“Division”) to consider the promulgation of amendments of rules in Chapter 0780-1-41. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Conference Room A, on the Fifth Floor of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:00 a.m. CST on the 18th day of November, 2002.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division 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 Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division’s ADA Coordinator at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at (615) 741-2176.

For a copy of this notice of rulemaking hearing, please contact John F. Morris, Staff Attorney, at (615) 741-2199.

Chapter 0780-1-41

Relating to Tennessee Captive Insurance Companies

Amendments

Chapter 0780-1-41 Relating to Tennessee Captive Insurance Companies is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

Chapter 0780-1-41

Tennessee Captive Insurance Companies

Table of Contents

- 0780-1-41-.01 Purpose
- 0780-1-41-.02 Required Form Letter of Credit
- Appendix A Captive Insurance Company Irrevocable Letter of Credit

0780-1-41-.01 Purpose.

The purpose of this rule is to adopt a form letter of credit which may be used by captive insurance companies that wish to file such letters of credit in lieu of depositing cash or securities representing the capital required by Tenn. Code Ann. § 56-13-116.

Authority: Tenn. Code Ann. §§ 56-13-116 and 56-13-129.

0780-1-41-.02 Required Form Letter of Credit.

A captive insurance company that wishes to file a letter of credit in lieu of depositing cash or securities with the commissioner in an amount representing the capital required by Tenn. Code Ann. § 56-13-116 must use the form Captive Insurance Company Irrevocable Letter of Credit, hereby made a part of this Chapter as an appendix hereto.

Authority: Tenn. Code Ann. §§ 56-13-116 and 56-13-129.

APPENDIX A
CAPTIVE INSURANCE COMPANY
IRREVOCABLE LETTER OF CREDIT

<Name of Bank>

<City and State>

Letter of Credit No. _____

Commissioner of Commerce and Insurance
State of Tennessee

Date _____

Commissioner:

1. We hereby establish our IRREVOCABLE LETTER OF CREDIT in your favor for the account of <Name of Tennessee Captive Insurance Company> up to the aggregate amount of \$1,000,000 available by your draft(s) drawn on us, at sight, bearing the above number of this IRREVOCABLE LETTER OF CREDIT. This IRREVOCABLE LETTER OF CREDIT shall expire at our Letter of Credit Department, <City & State>, at our close of business on <Date>, unless as hereinafter extended.
2. This IRREVOCABLE LETTER OF CREDIT is issued pursuant to the provisions of Tenn. Code Ann. §§ 56-13-101, *et seq.*, as amended, The Tennessee Captive Insurance Company Act of 1978, and on behalf of the above mentioned Tennessee Captive Insurance Company which is applying for a Certificate of Authority to engage in the insurance business in the State of Tennessee as a captive insurance company.
3. It is a condition of this IRREVOCABLE LETTER OF CREDIT that it shall be automatically extended for additional one (1) year periods unless at least ninety (90) calendar days prior to the then relevant expiration date we have advised you in writing that we elect not to extend. In that event, you may draw hereunder on or prior to the then relevant expiration date, up to the full amount then available hereunder, against your sight draft(s) on us, bearing the number of this IRREVOCABLE LETTER OF CREDIT.
4. It is a further condition of this IRREVOCABLE LETTER OF CREDIT that each automatic extension shall be measured from the then relevant expiration date or relevant expiration date, even though such date be not a business day in <City & State> for this Bank. It is also a condition of this IRREVOCABLE LETTER OF CREDIT that, for the purpose of drawing hereunder, if the then relevant expiration date is a non-business day for our Bank, drawing may be made not later than our next immediately following business day.
5. This IRREVOCABLE LETTER OF CREDIT sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any note, document, instrument or agreement referred to herein or in which this IRREVOCABLE LETTER OF CREDIT is referred to or to which this IRREVOCABLE LETTER OF CREDIT relates and any such reference shall not be deemed to incorporate herein by reference to any note, document, instrument or agreement.
6. Each sight draft so drawn and presented shall be promptly honored by us if presented on or prior to the above stated expiration date or any extension thereof as above provided.


Legal Contact and/ or party who will approve final copy for publication:

John F. Morris
Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
25th Floor Tennessee Tower
312 Eighth Avenue, North
Nashville, Tennessee 37243
615-741-2199

Contact for disk acquisition:

John F. Morris
Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
25th Floor Tennessee Tower
312 Eighth Avenue, North
Nashville, Tennessee 37243
615-741-2199

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Commissioner of Commerce and Insurance.



John F. Morris
Staff Attorney

REC-1000
2002 SEP 30 AM 09:45
NOTARY PUBLIC
STEPHANIE BROWN

Subscribed and sworn to before me this the 30 day of September, 2002.

Stephanie Brown

Notary Public

My commission expires on the 28 day of January, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of September, 2002.

Riley C. Darnell

Riley C. Darnell
Secretary of State

BY: Shawna Graw
