TENNESSEE
COLLECTION SERVICE BOARD
MINUTES

DATE: August 2, 2011

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler, Vice Chairman
James Mitchell

ABSENT: Beth Dixon

PRESENT: Staff Members:
Donna Hancock, Executive Director
Terrance Bond, Assistant General Counsel
Judy Elmore, Administrative Assistant

CALL TO ORDER: Chairman Howard called the teleconference meeting to order at 1:07 p.m. and the following business was transacted:

Each Board member identified themselves and each stated that they were alone at their respective locations.

The Tennessee Collection Service Board meeting is being held by teleconference to discuss the necessity of filing Emergency Rules relative to location manager licensing examination fees, pursuant to Tenn. Code Ann. §62-20-108, Tenn. Comp. R. and Regs. 0320-01-.02 and Tenn. Comp. R. and Regs. 0320-01-.03

In compliance with Tenn. Code Ann. §8-44-108, the Board found that the following facts and circumstances warranted an emergency meeting, with Board member participation by electronic means:

1. The Board has a legal duty, pursuant to Tenn. Code Ann. §62-20-108(b)(3) to provide location manager licensing examinations three (3) times per calendar year;

2. Such examinations must be composed, administered and graded by an outside,

independent educational testing organization selected by the Board, in accordance with Tenn. Code Ann. 62-20-108(a)(2);

3. In fulfillment of its legal duty to provide examinations and in anticipation of the expiration of its then-existing contract for examination services with Prometric, the Board issued a Request for Proposals ("the Request") on April 20, 2011;

4. The Request specifies, in accordance with Tenn. Comp. R. and Regs. 0320-01-.02 (1) and 0320-01-.03(3) that proposers would be entitled to collect fifty dollars ($50.00) from each examination candidate for each examination administered;

5. No proposals were submitted in response to the request, which resulted in the Board's contract with Prometric expiring on June 30, 2011, leaving no available means to continue providing examinations to location manager candidates;

6. The Board requested that Prometric enter into an amendment in advance of the contract expiration date that would permit the Board to continue offering testing services while attempting, through the rulemaking hearing process, to modify its examination fee structure in order to entice potential proposers;

7. Prometric declined to enter into such an amendment, stating that the current examination fee structure was insufficient to cover its administration costs given the number of candidates that are typically tested on each examination date;

8. The Board, in order to meet its statutory obligation, must secure an outside, independent educational testing organization and, through such organization, administer a test to qualified candidates on or before December 31, 2011;

9. Only one (1) of the four (4) existing Board members is a resident of Davidson County;

10. Each of the Board members is either an existing business owner or has substantial business interests that require their physical presence and/or availability wherever such interests are located;

11. Each of the Board members has already modified their regular business schedules to accommodate each of the Board's regular meeting dates; further modifications (especially those requiring travel to and, potentially, an overnight stay in Davidson County) on short notice cannot be made without unduly burdening the members' business interests.

Elizabeth Trinkler made a motion to approve the findings, second by James Mitchell. Roll-call votes: James Mitchell – Aye; Elizabeth Trinkler – Aye; Bart Howard – Aye. Motion Carried.

AGENDA: Elizabeth Trinkler made a motion to accept the agenda, seconded by James Mitchell. **Motion Carried.**

Assistant General Counsel Terrance Bond then read the following proposed rules:

Chapter 0320-01
Licensing

Amendments

Rule 0320-01-.02 Examinations is amended by deleting subsection (1) of the rule in its entirety and substituting instead the following so that, as amended, the subsection shall read:

(1) Upon being approved by the Collection Service Board, the candidate shall apply to the approved,
independent educational testing organization, on the form supplied by the testing organization,
accompanied by the testing fee prescribed by the organization to take the location manager
licensing examination.

Authority: Tenn. Code. Ann. §§ 62-20-104 and 62-20-108.

Rule 0320-01-.03 Fees is amended by deleting subsection (3) of the rule in its entirety and substituting instead the following so that, as amended, the subsection shall read:

(3) In case of failure, the failing location manager licensing examination candidate shall pay a reexamination
fee as prescribed by the approved educational testing organization.

Authority: Tenn. Code. Ann. §§ 62-20-104 and 62-20-108.

Elizabeth Trinkler made a motion to approve the substance of the Rules as proposed, second by James Mitchell. Roll-call votes: James Mitchell-Aye; Elizabeth Trinkler-Aye; Bart Howard-Aye. Motion Carried.

The Board adopted the following statement relative to the necessity of the proposed rules:

The Tennessee Collection Service Board finds that these rules are necessary in order to allow the board to continue to meet its statutory obligation, pursuant to Tenn. Code Ann. §62-20-108, to provide periodic licensing examinations to collection service location manager candidates. Location managers are statutorily designated to be in active and responsible charge of the business of a collection service in order to ensure that all activities of the collection service comport with the Tennessee Collection Service Act, Tenn. Code Ann. §62-20-101, *et seq.*, other state and federal laws applicable to the credit and collection industry and generally accepted business practices; therefore, the board's ability to continue to provide examinations for and license such individuals is directly related to its ability to fulfill its duty to protect the health, safety and welfare of consumers targeted by collection services. The current rule, which limits the amount examination vendors may charge examination candidates to fifty dollars ($50.00), is not

sufficient to cover vendors' examination administration costs, given the number of candidates that test each year. As a result, no vendors responded to the board's most recent examination Request for Proposals (RFP), leaving the board without the means to continue administering the location manager licensing program.

James Mitchell made a motion to approve the necessity statement, second by Elizabeth Trinkler. Roll call vote: Elizabeth Trinkler-Aye; James Mitchell-Aye; Bart Howard-Aye. Motion Carried.

Mr. Bond read the following statement regarding the **"Impact on Local Governments"** - Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments". The proposed herein will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposal amends existing rules 0320-1-.02 and 0320-1-.03 by deleting the location manager licensing examination and re-examination fees, which are limited to fifty dollars ($50.00), and instead allowing the examination vendor to set an examination fee that is sufficient to cover administrative costs associated with examination development, review, testing, security and scoring, etc.

A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. §62-20-108 requires that the board, through an outside, independent educational testing organization, administer the location manager licensing examination three (3) times each year.

Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Any collection service seeking to do business (or continue doing business in the event that the collection service loses its location manager and must appoint a replacement manager) in the State of Tennessee will be affected by these rules. At this time, it is unknown whether such entities support or oppose adoption of the proposed rules.

Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known opinions of the attorney general or judicial rules that directly relate to the proposed rules.

An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning

upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

Minimal fiscal impact is anticipated as a result of the adoption of these rules.

Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Terrance L. Bond

Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Terrance L. Bond

Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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Any additional information relevant to the rule proposed for continuation that the committee requests.

Motion made by Elizabeth Trinkler to approve the Impact Statement, second by James Mitchell. Roll call vote – Elizabeth Trinkler-Aye; James Mitchell-Aye; Bart Howard-Aye.

ADJOURN: With no other new or unfinished business to discuss, Elizabeth Trinkler made a motion for the meeting to adjourn, second by James Mitchell. Meeting was adjourned at 1:35 p.m..

Bart Howard, Chairman