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 rules. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Conference Room A of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. CST on the 16th day of November 2006.

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 and (615) 741-6500.

For a copy of this notice of rulemaking hearing contact: Tony Greer, Staff Attorney, Office of Legal Counsel, Department of Commerce and Insurance, Davy Crockett Tower, Twelfth Floor, Nashville, Tennessee 37243, and (615) 741-2199.

Chapter 0780-1-80
Tennessee Vehicle Protection Product Act Regulations

New Rules

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Rule 0780-1-80-.01 Purpose and Scope.

(1) The purpose of this Chapter is to set standards to assist the Commissioner of Commerce and Insurance in administering the Vehicle Protection Product Act ("Act"), as provided for in Tenn. Code Ann. §§ 56-55-113.

(2) This Chapter shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this State, nor shall this chapter be interpreted to supersede any laws or parts of laws of this State.

Authority: Tenn. Code Ann. § 56-55-113.

Rule 0780-1-80-.02 Authority.

This Chapter is issued pursuant to the authority vested in the Commissioner of Commerce and Insurance of the State of Tennessee pursuant to Tenn. Code Ann. §§ 56-55-101 through 56-55-115.

Authority: Tenn. Code Ann. § 56-55-113.

Rule 0780-1-80-.03 Definitions.

(1) "Administrator" means a third party, other than the warrantor, who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties;

(2) "Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance;

(3) "Department" means the Tennessee Department of Commerce and Insurance;

(4) "Incidental costs" means expenses resulting from loss or damage to a vehicle, as specified in the warranty, incurred by the warranty holder, related to the failure of the vehicle protection product to perform as provided in the warranty. "Incidental costs" may include, but not be limited to, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. "Incidental costs" do not include the costs specified in the warranty to repair, replace or provide a refund for a vehicle protection product that fails to perform as provided in the warranty;

(5) "Person" means any natural or artificial person including, but not limited to, an individual, partnership, association trust or corporation;

(6) (a) "Vehicle protection product" means a vehicle protection device, system, or service that:

(i) Is installed on or applied to a vehicle;

(ii) Is designed to prevent loss or damage to a vehicle from a specific cause; and

(iii) Includes a written warranty;

(b) "Vehicle protection product" includes, but is not limited to, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices;

(7) "Vehicle protection product warranty" or "warranty" means a written agreement by a warrantor that provides that, if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause, then the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty;

(8) "Vehicle protection product warrantor" or "warrantor" means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. "Warrantor" does not include an authorized insurer;

(9) "Warranty holder" means the person who purchases a vehicle protection product or who is a permitted transferee; and

(10) "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor, or to

pay on behalf of the warrantor, all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

Authority: Tenn. Code Ann. §§ 56-55-102 and 56-55-113.

Rule 0780-1-80-.04 Warrantor Filing Requirements.

(1) The following items are required to be submitted upon the initial registration of any person wishing to register to operate as a warrantor of vehicle protection products, and annually thereafter in order to renew the registration:

(a) The information required by Tenn. Code Ann. § 56-55-104(b). This information shall be submitted on a form created by the Commissioner;

(b) Copies of any warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State. Such policies must conform to the requirements found in Tenn. Code Ann. §§ 56-55-105 and 56-55-106;

(c) Two (2) copies of each warranty the registrant proposes to use in this State;

(d) An appointment of the Commissioner and the Commissioner's deputies and successors as true and lawful attorneys upon whom any and all lawful process may be served on behalf of the warrantor in connection with any business done by the warrantor under Tenn. Code Ann. §§ 56-55-101, *et seq.* Such appointment shall be made on a form created by the Commissioner;

(e) A registration fee in the amount of five hundred fifteen dollars ($515.00); and

(f) A self addressed stamped envelope.

(2) A complete copy of each registration form, including all required exhibits and other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to: Commissioner of the Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The registration form shall be manually signed.

(3) Should the registration form submitted upon the initial registration of a warrantor be deficient in any information required by Tenn. Code Ann. §§ 56-55-105 and 56-55-106 and Paragraphs (1) and (2) of this Rule, the Commissioner shall notify that initial registrant immediately of all such deficiencies. The initial registrant shall have forty-five (45) days from the date the notice was sent by the Commissioner to correct all deficiencies. Should the initial registrant not correct all deficiencies within the forty-five (45) days, the Commissioner shall deem the application abandoned. Any registrant who has abandoned an application must reapply as set forth in Paragraph (1) of this Rule in order to register as a warrantor.

(4) Should there be any change(s) in a registrant's information prior to the registrant's renewal, the Commissioner must be notified, in writing, within thirty (30) days of such change(s) by personal delivery or mail addressed to: Commissioner of the Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The written notice shall state any change(s) to the

information and what the information stated before the change(s). The written notice shall be manually signed.

(5) If a registrant fails to properly renew its registration by July 1 of each year, the Commissioner shall give the registrant written notice of the failure to properly register. The registrant shall then have thirty (30) days from the date of the receipt of the notice of the failure to properly register to complete the registration before the registration is canceled. Any registrant with a canceled registration must reapply as set forth in Paragraph (1) of this Rule in order to obtain a new registration.

Authority: Tenn. Code Ann. §§ 56-55-104, 56-55-112 and 56-55-113.

Rule 0780-1-80-.05 Use of Surplus Lines Insurers.

A warrantor may secure a warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State from a surplus lines insurer. Such policies must conform to the requirements found in Tenn. Code Ann. §§ 56-55-105 and 56-55-106, and must be secured through a licensed surplus lines agent who represents a surplus lines insurer that is domiciled in the United States, and eligible under Tenn. Code Ann. §§ 56-14-101, *et seq.*, to provide such coverage.

Authority: Tenn. Code Ann. § 56-55-113.

Rule 0780-1-80-.06 Vehicle Protection Product Warranty Form Requirements.

(1) All vehicle protection product warranty forms required to be submitted under Tenn. Code Ann. § 56-55-104(b) and Rule 0780-1-80-.04 shall contain the language and disclosures required by Tenn. Code Ann. § 56-55-107, and may not contain any of the language or statements prohibited by Tenn. Code Ann. § 56-55-109.

(2) No vehicle protection product warranty shall contain any typeface smaller than twelve (12) point font, and the typeface chosen must be easily readable. All vehicle protection product warranties must be written in English, but may be written in other languages as well, so long as the translation of the warranty is a reasonable translation; any discrepancies in a translated warranty should be read in favor of the purchaser of the warranty.

Authority: Tenn. Code Ann. §§ 56-55-107, 56-55-109 and 56-55-113.

Rule 0780-1-80-.07 Record Keeping Requirements.

Each vehicle protection product warrantor shall maintain its accounts, books and records in the manner outlined in Tenn. Code Ann. § 56-55-110.

Authority: Tenn. Code Ann. §§ 56-55-110 and 56-55-113.

Rule 0780-1-80-.08 Procedures for Public Complaints.

(1) Complaints concerning vehicle protection product warranties and/or the warrantors who provide such warranties shall be handled by the Consumer Insurance Services Section (or successor organizational unit) of the Department's Insurance Division.

(2) The Consumer Insurance Services Section (or successor organizational unit) shall record and review all complaints received under this Rule, and the process for such review and disposition shall be the same as that for all other complaints submitted to the Consumer Insurance Services Section.

Authority: Tenn. Code Ann. § 56-55-113.

Rule 0780-1-80-.09 Cease and Desist Orders and Penalties.

(1) If the Commissioner determines that any person is violating any section of the Act or any of the provisions of this Chapter, the Commissioner may issue an order directing the warrantor to cease and desist from engaging in those acts, practices or transactions that are found to violate the Act or this Chapter, and may issue an order prohibiting the warrantor from continuing to offer any vehicle protection product in violation of the Act or the provisions of this Chapter.

(2) The Commissioner may, after notice and a hearing, levy a civil penalty in an amount not to exceed five thousand dollars ($5,000) against the warrantor of a vehicle protection product or person required to be registered to provide a vehicle protection product, upon a finding that the warrantor or the person required to be registered as a warrantor has violated any provision of the Act or of this Chapter. Each vehicle protection product warranty provided in violation of the Act and/or this Chapter, and/or each day of continued violation shall constitute a separate violation for purposes of determining the possible amount of penalty under this section.

Authority: Tenn. Code Ann. §§ 56-55-111 and 56-55-113.

Legal Contact and/ or party who will approve final copy for publication:
Tony Greer, Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
Davy Crockett Tower, Twelfth Floor
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Nashville, Tennessee 37243
615-253-7848

Contact for disk acquisition:
Tony Greer, Staff Attorney
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Davy Crockett Tower, Twelfth Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
615-253-7848

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.

Tony Greer
Staff Attorney

Subscribed and sworn to before me this the 29th day of September, 2006.

Andrea Wenk Hardy
Notary Public

My commission expires on the 14th day of November, 2009.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29 day of Sept., 2006.

Riley C. Darnell
Secretary of State

By: _____

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