



Tennessee Department of Commerce & Insurance
BOARD FOR LICENSING CONTRACTORS
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LICENSE & BIDDING REQUIREMENTS – SUMMARY

The following information is compiled from laws, rules and regulations to offer as a resource. It is up to the owner (awarding authority) to review bids and make a determination to accept or reject due to the prime (general) contractor's compliance with the bidding regulations. Should the Board receive a complaint alleging the law may have been violated, the full Board would evaluate through the complaint review process to determine any law violations. If it is determined a violation has occurred, the contractor/respondent may be penalized according to the civil penalties outlined in the statute. Citations with an order to "Cease and Desist" may be issued by the Director for unlicensed activity. To report a violation, see the complaint process at:

<http://www.tn.gov/regboards/contractors/complaint.shtml>

Inquires requesting opinions may be submitted in writing to the Director and if a response is needed prior to the next regularly scheduled Board meeting, the answer provided will not be considered a formal opinion since this would require presenting to the full Board. The Director's response may be offered as guidance and based upon past opinions by the Board for similar requests, as well as the law. See the "[Public Meetings Calendar](#)" website for dates of all Board meetings.

Ensure contractors are properly licensed with the appropriate license classification, monetary limit, current expiration date, "active" license status, and the exact name as licensed. This may be done by requesting a copy of their license for evidence; however it is best to confirm their status from the Board's website's "Verify a License" link at: <http://verify.tn.gov/> We also offer tips for searching for a license at: <http://www.tn.gov/regboards/contractors/documents/LicenseRosterSearchTips.pdf> To obtain an electronic license roster, you may do so online, at no charge, at the "Reports and Data" section at: <http://tdcidata.tn.gov/default.aspx> (Note: This is several hundred pages and may save a copy in lieu of printing.)

Due to continuing changes in the law and rules, it is advised to review our website for updates at: <http://www.tn.gov/regboards/contractors/law.shtml> To be notified of changes, please register to receive emails for updates at: http://www.tn.gov/notify-app/sign_up.html?agencyId=3

Contractor's License Requirements

A contractor's license is required by **prime** (general) contractors whenever the total cost is **\$25,000 or more**, prior to offering a price, bid or contract. A contractor's license is also required by many **subcontractors**; those performing **electrical, plumbing, HVAC, mechanical**; when the cost is \$25,000 or more. Effective January 1, 2011, **masonry subcontractors** are also required to be licensed as contractors whenever the total cost (*including materials and labor*) is \$100,000 or more. Effective **January 1, 2014**, roofing subcontractors will be required to be licensed, as well as prime, for projects \$25,000 or more.

➤ **Summary of License Requirements**

- **Prime (General) Contractors** - Bidding or contracting directly with the owner;
- **Subcontractors** - Bidding directly to a prime (general) contractor to perform the following:
 - **Electrical; Mechanical; Plumbing; and HVAC** when the total cost is \$25,000 or more; effective January 1, 2014, ***Roofing**; and
 - **Masonry** projects **\$100,000 and up** (includes all materials, equipment, and labor).
- **Construction Management** of any kind, where the value of the project is \$25,000 or more.

New! *Roofing subcontractors required to be licensed effective January 1, 2014. See [PC 0355](#).

Contractor License Classification

Pursuant TCA § 62-6-111(d), a contractor must be licensed with the proper license classification to cover at least 60% of the project. If their classification does not cover 60%, then they may only bid if they have a “commercial” classification (BC or BC-B or BC-b(sm)), but could not perform any portion over \$25,000 in which their classification does not cover; would need to subcontract to a properly licensed subcontractor.

Examples of contractors license classifications include: Building (BC - Residential, Commercial and Industrial); Electrical (CE – Electrical Work for Buildings and Structures, Signs, Low Voltage for Conduit, Telephone Lines, Sound and Intercom System, Alarms, Cable TV, etc.); Mechanical (CMC – Plumbing, HVAC, Process Piping, Fire Sprinklers, Boilers, etc.); Municipal Utility (MU – Underground Piping, Waterlines; Sewer Lines, etc.); Heavy Construction (HC – Demolition, Marine, Landfill, Storm Damage Clean-Up; Tower, Steel, Clearing, Welding, etc.); Highway Railroad and Airport (HRA – Grading, Drainage, Paving, Bridges, Traffic Safety, Landscaping, Guardrails, etc.); Environmental Specialties (S – Asbestos, Underground Storage Tanks, Lead-Based Paint, Hazardous Waste Removal, Remediation, etc.); and Specialties (S – Audio Video; Telecommunication Towers; Solar Panels; Equipment Installation, Meter Installation, etc.). See the outline of license classifications from our Rules at <http://www.tn.gov/sos/rules/0680/0680-01.20130308.pdf>

Other Licenses

Our Board also regulates other licenses for projects less than \$25,000 (Home Improvement; Limited Licensed Electricians; and Limited Licensed Plumbers). In addition, our Board is part of the Tennessee Department of Commerce and Insurance (TDCI), Division of Regulatory Boards which regulates other licensing, such as: Alarm Systems Contractors; Fire Sprinkler Contractors; Home Inspectors; Architects; etc. Other state agencies, such as the Tennessee Department of Environment and Conservation (TDEC) regulate well drillers for geothermal; asbestos; lead paint abatement; excavation; burn permits, etc. The Tennessee Department of Labor and Workforce Development (TDLWF) regulate elevators, boilers, etc., as well as workers’ compensation and labor laws. All this information is available from our website’s “Valuable Resources” at: <http://www.tn.gov/regboards/contractors/links.shtml>

Bid Envelope Listing (\$25,000 and Up)

For projects \$25,000 or more, the law requires the **Prime**, (general) contractor to list their contractor license information on the outside of the bid envelope (*or electronic bid*), with the **Name** as licensed, **License Number**, **Expiration Date** and the **Classification** applying to the bid. In addition to the prime, the contractor license information must also be included on the outside of the bid envelope or electronic bid, for the **Electrical, Plumbing, HVAC, and Masonry subcontractors**; unless their portion (*each discipline/field*) is less than \$25,000; or masonry portion if less than *\$100,000 (*including materials and labor*). In addition, ***Geothermal** projects must include the Department of Environment and Conservation (TDEC) **Well Driller** license number with the **G or L classification**. Only one (1) subcontractor may be listed for each classification. See the law for complete instructions, T.C.A. § 62-6-119.

NOTE: It is the responsibility of the subcontractor to provide evidence of their license to the prime contractor to ensure their name, license ID#, classification and expiration date is listed correctly on the outside of the bid envelope to prevent the entire bid from being rejected, as well as, being prohibited from rebidding or participating on a project. (See T.C.A. §§ 62-6-119 and 120; and Rules 0680-01-.18; 24; and 25)

*A list of geothermal well drillers may be obtained at: <http://www.tn.gov/environment/permits/welldrill.shtml>

Bid Envelope Listing (Less than \$25,000)

If the amount of the subcontractor’s portion, which includes materials and labor, and it is **less than \$25,000**, the law states in T.C.A. § 62-6-119, the name of the contractor only **MAY** appear on the outside of the bid envelope. Therefore, the Board for Licensing Contractors has not considered it a violation of law for failure of the prime contractor to list the subcontractor’s information, if the sub’s total portion is less than \$25,000 (*including materials and labor*), or in the case of masonry, less than \$100,000. Materials and labor cannot be deducted from the subcontractor’s portion to circumvent the law.

Note: Always follow the bidding instructions. Some awarding authorities may add additional requirements to their bid solicitations and request the prime to provide the monetary limit or to list the “Name” of every subcontractor. You would need to comply with their requirement to prevent rejection due their requirements.

Prime Bids Rejected

It is very important to follow the bidding instructions and to also have the subcontractor supply the prime contractor with a copy of license information. This may be obtained and printed from the website at: <http://verify.tn.gov/> The law further states, “the failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid.” Therefore, if a bid is improperly submitted and not rejected, it is considered a violation of law. See the law for more information at T.C.A. § 62-6-120.

Monetary Limit Designated on a Contractor’s License

Please note, the prime contractor’s license limit must cover the total cost (including materials and labor) of the project and contracts cannot be split to circumvent the law; see Rule 0680-1-.13. In addition, the subcontractor’s (electrical, HVAC, plumbing, mechanical, masonry, and *roofing) license must cover the entire portion of their work. For example, the prime contractor cannot supply the plumbing equipment as a means to ensure the plumber’s portion is within their monetary limit. There is a 10% bid tolerance, only. Bidding in excess of a license limit prevents a contractor from recovering payment for both residential and commercial projects by filing a *lien (see T.C.A. § 62-6-128; and 66-6-111.) The contractor’s license limit is determined by the Board and is based on both their financial statement and experience. See also the Attorney General’s Opinion 93-12 from the Board’s website at:

<http://www.tn.gov/regboards/contractors/law.shtml>

NEW! *Lien rights prohibited from both unlicensed residential and commercial contractors, including those exceeding their monetary limit (more than 10%). [See PC 469](#)

Subcontractors Required to be Licensed

A subcontractor is one bidding or contracting directly to the licensed prime (general) contractor and not to the owner. A contractor’s license is NOT required by all subcontractors, **UNLESS**, the subcontractors are those performing: **Electrical, Mechanical, Plumbing, HVAC, and *Roofing work in excess of \$25,000; or **masonry** (including materials and labor) **in excess of \$100,000.**

**Effective January 1, 2014, roofing subcontractors must also be licensed to perform roofing for projects \$25,000 or more, with a BC-21 (Roofing) classification. In addition, the classifications of BC or BC-B for commercial roofing; or BC-A for residential roofing; or BC-C for industrial roofing.*

***Effective January 1, 2011, BC (commercial) or BC-9 (Masonry), does not cover masonry projects when the cost is \$100,000 or more. Contractors must be licensed with a LMC classification.*

Subcontractors Exempt from License Requirements

Subcontractors typically exempt from the license requirements are those performing projects such as: painting, flooring, excavation, landscaping, etc. For example, a painting subcontractor would not need a license, regardless of the cost or contract amount, as long as their contract is with the licensed prime (general) contractor. However, if they bid or contract directly with the owner and the total cost was \$25,000 or more, they would be required to be licensed since contracting with the owner makes them a “prime” and not a “subcontractor”.

Violations

A contractor who contracts, offers to engage, bids or obtains a permit without the required license or proper classification and monetary limit, is in violation of T.C.A. §62-6-120. Therefore, would be **ineligible to be awarded the project; cannot participate in any rebidding of the project; may not receive a license for six (6) months; and also subject to civil penalties.** Bidding requirements entail listing the license name, number, expiration date and the classification pertaining to bid, on the outside of the bid envelope. (Refer to T.C.A. §62-6-119.) A prime contractor who lists a subcontractor not properly licensed as required would not be allowed to be awarded the project and also in violation for accepting bid (see T.C.A. § 62-6-120).

License Confirmation from Subcontractors

Pursuant to Rule 0680-1-.24, the subcontractor is responsible for furnishing evidence of their license information to ensure the correct name, license ID#, classification and monetary limit is acceptable to bid and perform the project. The law prohibits listing more than one (1) subcontractor for each classification. **Failing to list a properly licensed subcontractor could cause the entire bid to be rejected!** Details of

license may be confirmed from our website at: <http://verify.tn.gov/> Also see tips on searching a license, as well as status information at:

<http://www.tn.gov/regboards/contractors/documents/LicenseRosterSearchTips.pdf>

Reciprocal Agreements

A contractor must have a Tennessee contractor's license prior to bidding or offering to engage. A "trade exam" waiver agreement, only, exists with several bordering states. However, this is the only waiver of any of the licensing requirements. See the "[Reciprocity](#)" information from the Board's website. The "[Bid Preference Law](#)" for our state requires the same of nonresident contractors as they do of resident contractors. This statute is found in T.C.A. 12-4-801 and states in part, "*should the bidder on a public construction project in this state be a resident of another state contiguous to Tennessee, a like reciprocal preference is allowed*".

License Law, Rules and Regulations

Website: <http://www.tn.gov/regboards/contractors/law.shtml>

Laws

❖ Definition of Contractor

T.C.A. § 62-6-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the state board for licensing contractors created pursuant to § 62-6-104;

(2) "Commercial building contractors" are those contractors authorized to bid on and contract for every phase of the construction, direction, alteration, repair or demolition of any building or structure for use and occupancy by the general public;

(3) "Contracting" means any person or entity that performs or causes to be performed any of the activities defined in subdivision (4)(A) or (7);

(4) (A) (i) "Contractor" means any person or entity that undertakes to, attempts to or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement or any other construction undertaking for which the total cost is twenty-five thousand dollars (\$25,000) or more; provided, however, with respect to a licensed masonry contractor, such term means and includes the **masonry** portion of the construction project, the total cost of which exceeds one hundred thousand dollars (\$100,000), materials and labor;

(ii) "Contractor" includes, but is not limited to, a **prime contractor, electrical contractor, electrical subcontractor, mechanical contractor, mechanical subcontractor, plumbing contractor and plumbing subcontractor, masonry contractor**, and ***roofing subcontractor** where the total cost of the roofing portion of the construction project is twenty-five thousand dollars (\$25,000) or more.

NEW! *Roofing subcontractors required to be licensed effective January 1, 2014 – See [Public Chapter0355](#).

(iii) If the cost of a project exceeds twenty-five thousand dollars (\$25,000), "contractor" also includes a construction manager of any kind, including, but not limited to, a residential construction manager, construction consultant, architect or engineer who conducts or provides any activity or service described in this subdivision (4) other than normal architectural and engineering services;

(B) As used in subdivision (4)(A)(iii), "normal architectural and engineering services" means:

(i) The preparation of bids, proposals, plans, specifications or other contract documents or the evaluation of contractors, subcontractors or suppliers;

(ii) The approval of shop drawings, submittals, substitutions, pay requests or other

certifications required by contract documents;

(iii) Conducting representative reviews for progress and quality of construction on behalf of the owner;

(iv) Interpretations and clarifications of contract documents;

(v) Preparation and approval of changes in construction; and

(vi) Preparation of as-built drawings and operation and maintenance manuals;

(C) "Contractor" does not include an engineer licensed in accordance with chapter 2 of this title who is:

(i) Managing and supervising the removal, remediation or clean up of pollutants or wastes from the environment;

(ii) Serving as a corrective action contractor, as defined by the rules and regulations of the department of environment and conservation;

(iii) Conducting subsurface investigation or testing, or both, by drilling or boring to determine subsurface conditions;

(iv) Conducting geophysical or chemical testing of soil, rock, ground water or residues; or

(v) Installing of monitoring detection wells or plezometers for evaluating soil or ground water characteristics;

(D) "Contractor" does not include:

(i) Any undertaking, as described in former subdivision (3)(D)(i) [repealed] for the department of transportation; or

(ii) Subcontractors other than electrical subcontractors, licensed masonry subcontractors, and roofing subcontractors where the total cost of the roofing portion of the construction project is \$25,000 or more, mechanical subcontractors and plumbing subcontractors defined as a contractor pursuant to subdivision (4)(A);

(E) No contractor shall be authorized to perform contracting work as a licensed masonry contractor unless the contractor is licensed as a masonry contractor in accordance with this part.

(5) "Licensed masonry contractor" means a contractor who builds structures from individual units of brick, stone, or concrete and glass block laid in and bound together by mortar, where the total cost of the masonry portion of the construction project exceeds one hundred thousand dollars (\$100,000), materials and labor, and who is required to obtain a license as a licensed masonry contractor by the board;

(6) "Limited licensed electrician" means any person or entity that performs any electrical work that has a total cost of less than twenty-five thousand dollars (\$25,000) and that is required to be registered under § 68-102-150;

(7) "Prime contractor" is one who contracts directly with the owner; and

(8) "Residential contractor" means one whose services are limited to construction, remodelling, repair or improvement of one (1), two (2), three (3) or four (4) family unit residences not exceeding three (3) stories in height and accessory use structures in connection with the residences.

NEW! SECTION 1. Tennessee Code Annotated, Section 62-6-102, is amended by adding the following language as a new, appropriately designated subdivision:

*"**Roofing work**" means the act of removing, installing, repairing or otherwise maintaining any covering to any at- or above-grade structure for the purpose of providing weather proof protection or ornamental enhancement to such structure;

*[See PC 355](#)

❖ **Requirements, Exemptions and Recovery of Expenses**

NEW! T.C.A. 62-6-103 - License requirement – Recovery of expenses by unlicensed contractor (amended).

(a)(1) Any person, firm or corporation engaged in contracting in this state shall be required to submit evidence of qualification to engage in contracting, and shall be licensed as provided in this part. It is unlawful for any person, firm, or corporation to engage in or offer to engage in contracting for any project in this state, unless, at the time of such engagement or offer to engage, the person, firm, or corporation has been duly licensed with a **monetary limitation** sufficient to allow the person, firm, or corporation to engage in or offer to engage in such contracting project under this chapter. The board for licensing contractors shall have the authority to grant or allow an exception, **in an amount not to exceed ten percent (10%)**, to the monetary limitation of such license provided in subdivision (a)(1). Any person, firm, or corporation engaged in contracting, including a person, firm, or corporation that engages in the construction of residences or dwellings constructed on private property for the purpose of resale, lease, rent, or any other similar purpose, shall be required to submit evidence of qualification to engage in contracting and shall be licensed. It is unlawful for any person, firm, or corporation to engage in, or offer to engage in, contracting as described in subdivision (a)(1) unless the person, firm, or corporation has been duly licensed under this part.

SECTION 2. Tennessee Code Annotated, Section 62-6-103, is amended by adding the following new subsection thereto:

(c) Notwithstanding any law to the contrary, **no lien** otherwise authorized pursuant to title 66, chapter 11 shall be available to any person, firm, or corporation engaged in construction in violation of this chapter. (*See also T.C.A. § 62-6-128*)

[*See PC 469](#)

❖ **Prohibits Liens by Unlicensed Commercial Contractors and those Exceeding Limit**

NEW! T.C.A. § 66-11-102(a) (Lien Laws)

SECTION 3. Tennessee Code Annotated, Section 66-11-102(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) There shall be a lien on any lot or tract of real property upon which an improvement has been made by a prime contractor or any remote contractor; provided, that the lienor has complied with title 62, chapter 6. If the lienor has not fully complied with title 62, chapter 6, no lien is established by this chapter. The lien shall secure the contract price.

SECTION 4. Tennessee Code Annotated, Section 66-11-101(16), is amended by deleting the language "underground".

SECTION 5. Tennessee Code Annotated, Section 66-11-104(a), is hereby amended by deleting the word "underground".

SECTION 6. This act shall take effect July 1, 2013, the public welfare requiring it, and shall apply to contracts entered into or renewed on or after the effective date and to liens filed for construction performed on or after the effective date

[*See Public Chapter 469](#)

❖ **Classification Must Cover 60% of the Project**

T.C.A. § 62-6-111. License and examination, etc.

(d) A contractor may bid on a contract requiring work in a classification or classifications other than the one in which the contractor is licensed if and only if the contractor has a **commercial** building contractor's license or if such contractor's license will permit the contractor to perform at least sixty percent (**60%**) of the bid amount or price of the work for the project being bid or priced. However, such contractor may not actually perform any work in excess of twenty-five thousand dollars (\$25,000) or in the case of a limited licensed electrician where the amount of work is less than twenty-five thousand dollars (\$25,000) in any classification unless the contractor has a license to perform work in such classification.

❖ **Bid Envelope Listing**

T.C.A. § 62-6-119. Bid documents -- Penalties.

(a) Any person or entity preparing plans, specifications or any other documentation for inclusion in an invitation to bid or comparable bid document including any electronic bidding documents, shall reference this chapter in such documentation and a specific statement informing the invited bidder that it is necessary for such bidder to provide evidence of compliance with the applicable provisions of this chapter before such bid may be considered.

(b) The person or entity involved in the preparation of the invitation to bid or comparable bid documents including any electronic bid documents shall direct that the **name, license number, expiration date** thereof, and **license classification** of the contractors applying to bid for the prime contract and for the **masonry** contract where the total cost of the masonry portion of the construction project exceeds one hundred thousand dollars (**\$100,000**), materials and labor, **electrical, plumbing, heating, ventilation, and air conditioning** contracts, and for each vertical closed loop **geothermal** heating and cooling project, the company name, department of environment and conservation license number, classification (G, L or G,L) and the expiration date, appear on the outside of the envelope containing the bid or in the submission of an electronic bid except when the bid is in an amount less than twenty-five thousand dollars (\$25,000).

Only one (1) contractor in such classification may be listed. Prime contractor bidders who are to perform the masonry portion of the construction project which exceeds one hundred thousand dollars (\$100,000), materials and labor, the electrical, plumbing, heating, ventilation and air conditioning or the geothermal heating and cooling **must be so designated upon the outside of the envelope or in the electronic bid. Failure of any bidder to comply therewith shall void such bid and such bid shall not be considered.** It is the duty and responsibility of the awarding person or entity who received the envelope containing the bid or the electronic bid to verify only the completeness of the required licensure information. Prior to the opening of the envelope or acceptance of an electronic bid, the names of all contractors listed thereon or therein shall be read aloud at the official bid opening and incorporated into the bid. Prior to awarding a contract, the awarding person or entity and its authorized representatives shall verify the accuracy, correctness and completeness of the information required hereby. The failure of any bidder to comply with all of the provisions hereof shall automatically disqualify such bid. However, bids administered by the Tennessee department of general services shall require that the information be furnished within the bid or bid document only. When the bid is **less than twenty-five thousand dollars (\$25,000)**, the name of the contractor only **may** appear on the outside of the envelope containing the bid or in the electronic bid document, and upon opening the envelope or review of the electronic bid, if such bid is in excess of twenty-five thousand dollars (\$25,000), the same shall automatically be disqualified.

(c) No invitation to bid may require that:

(1) Any subcontractor be identified, listed or designated until the final bid submission by the prime contractor; and

(2) Any prime contractor accept the bid of any subcontractor until the final bid submission by the prime contractor.

(d) Any person or entity, public and private, failing to observe this section shall be penalized in the same manner as any person under § 62-6-120 who accepts a bid from a person who is not licensed in accordance with the provisions of this chapter.

(e) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) for any violation of this section.

❖ **Penalties for Violations**

T.C.A. § 62-6-120. Penalties.

(a) (1) Any person, firm or corporation that engages or offers to engage in contracting without a license as required by § 62-6-103 or who violates the terms and conditions of any license or renewal granted by the board pursuant to this part commits a Class A

misdemeanor. The penalties imposed by this subdivision (a)(1) shall not apply to a person who engages a contractor without a license for the purpose of constructing a residence for the use of that person.

***NEW! (2)** Any person, firm or corporation that engages or offers to engage in contracting without a license as required by § 62-6-103 may, in the discretion of the board, be deemed ineligible to receive a license until six (6) months after the date the person, firm or corporation engaged or offered to engage in contracting. Additionally, no such person, firm or corporation shall be awarded any contract for the project upon which it engaged in contracting without a license or permitted to participate in any rebidding of the project.

[*See Public Chapter 180](#)

(b) Any person, firm or corporation that accepts a bid in excess of twenty-five thousand dollars (\$25,000) from a contractor who is not licensed, with appropriate classifications and sufficient monetary limitations, or in the case of a limited licensed electrician where the amount is less than twenty-five thousand dollars (\$25,000), in accordance with this part, commits a Class A misdemeanor.

(c) (1) No official of the state other than of the department of transportation shall issue a permit or contract work order to any applicant for a permit or work order to engage in contracting, unless the applicant holds a license as a contractor with appropriate classifications and sufficient monetary limitations, in accordance with this part.

(2) Any official violating this subsection (c) commits a Class A misdemeanor.

(d) Notwithstanding the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, relative to the amount of civil penalties that may be imposed, the board may impose a civil penalty not to exceed five thousand dollars (\$5,000) per offense against any person or firm that violates the terms and conditions of an existing license to engage in contracting or against any person or firm that engages in unlicensed contracting.

(e) (1) (A) The director of the board, acting on behalf of the board, is authorized to issue citations against persons acting in the capacity of or engaging in the business of a contractor without a license in violation of § 62-6-103.

(B) Each citation shall be in writing and shall describe with particularity the basis of the citation.

(C) Each citation shall contain an order to cease all violations of this part and an assessment of a civil penalty in an amount no less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000).

(2) The board shall promulgate rules and regulations to specify those conditions necessary to the issuance of a citation and the range of penalties for violations of this part.

(3) The sanctions authorized pursuant to this subsection (e) shall be in addition to any other remedies, civil and criminal, available to any person harmed by a violation of this part.

(4) Service of a citation issued pursuant to this subsection (e) may be made by certified mail at the last known business address or residence address of the person cited.

(5) A citation issued pursuant to this subsection (e) shall be issued by the director within one (1) year after the act or omission that is the basis for the citation.

(6) Any person served with a citation pursuant to this subsection (e) may appeal to the director by written notice postmarked within fifteen (15) working days after service of the citation with respect to violations alleged, scope of the order or amount of civil penalty assessed.

(7) If a person cited timely notifies the director that the person intends to contest the citation, the director shall afford an opportunity for a contested case hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3.

(8) After all administrative appeals have been exhausted, the director may apply to the appropriate court for a judgment in an amount of the civil penalty, plus applicable court costs, and for an order to cease activities in violation of § 62-6-103. The motion for the

order, which shall include a certified copy of the final order of the hearing officer or administrative judge, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(9) (A) Notwithstanding any other law to the contrary, the director may waive part of the civil penalty if the person against whom the civil penalty is assessed satisfactorily completes all the requirements for, and is issued, a license as a general contractor.

(B) Any outstanding injury to the public shall be settled satisfactorily before a license as a general contractor is issued.

(f) Any individual or entity that fails to pay a civil penalty assessed by the board pursuant to the terms of a final order entered by the board after a contested case hearing against the individual or entity pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, may be referred to a collection agency.

(g) Failure to pay any civil penalty assessed by the board shall subject the individual or entity to suspension or revocation of a license issued pursuant to this part.

❖ **Retainage** (Not part of the license law)

T.C.A. § 66-34-103. Withholding of retainage Violations Penalties.

❖ (a) All construction contracts on any project in this state, both public and private, may provide for the withholding of retainage; provided, however, that the retainage amount may not exceed five percent (5%) of the amount of the contract.

(b) The owner, whether public or private, shall release and pay all retainages for work completed pursuant to the terms of any contract to the prime contractor within ninety (90) days after completion of the work or within ninety (90) days after substantial completion of the project for work completed, whichever occurs first. As used in this subsection (b), work completed shall be construed to mean the completion of the scope of the work and all terms and conditions covered by the contract under which the retainage is being held.

The prime contractor shall pay all retainages due any subcontractor within ten (10) days after receipt of the retainages from the owner. Any subcontractor receiving the retainage from the prime contractor shall pay to any subsubcontractor or material supplier all retainages due the subsubcontractor or material supplier within ten (10) days after receipt of the retainages.

(c) Any default in the making of the payments shall be subject to those remedies provided in this part.

(d) In the event that an owner or prime contractor withholds retainage that is for the use and benefit of the prime contractor or its subcontractors pursuant to § 66-34-104(a) and (b), neither the prime contractor nor any of its subcontractors shall be required to deposit additional retained funds into an escrow account in accordance with § 66-34-104(a) and (b).

(e) (1) It is an offense for a person, firm or corporation to fail to comply with subsection (a) or (b) or § 66-34-104(a).

(2) (A) A violation of this subsection (e) is a Class A misdemeanor, subject to a fine only of three thousand dollars (\$3,000).

(B) Each day a person, firm or corporation fails to comply with subsection (a) or (b) or § 66-34-104(a) is a separate violation of this subsection (e).

(C) Until the violation of this subsection (e) is remediated by compliance, the punishment for each violation shall be consecutive to all other such violations.

(3) In addition to the fine imposed pursuant to subdivisions (e)(2)(A) and (B), the court shall order restitution be made to the owner of the retained funds. In determining the appropriate amount of restitution, the formula stated in § 40-35-304 shall be used.

❖ **Prevailing Wage Act for State Highway Construction Projects**

NEW! *T.C.A. §12-4-402 (Effective January 1, 2014)

*[See PC 280](#)

Rules and Regulations

The following are excerpts from the rules relative to bidding. These may be reviewed in full from the Secretary of State's website at: <http://www.tn.gov/sos/rules/0680/0680.htm>

0680-01-.11 JOINT VENTURES.

(1) A joint venture provides a means by which licensed contractors may combine their monetary limitations in order to undertake a larger project than each would otherwise be able to perform as separate contractors. No contractor may participate in a joint venture unless:

- (a) he is licensed in a classification which is a necessary and integral part of the total project; and
- (b) the monetary limitation on such classification is equal to or greater than the portion of the total cost of the project involving that classification.

0680-01-.13 MONETARY LIMITATIONS.

(3) A tolerance of ten percent (10%) will be allowed on the monetary limitation placed on any classification of a license other than a Limited Residential license.

(4) Subject to such tolerance, no contractor shall engage, or offer to engage, in any project of which the cost (including all material and labor furnished by or through another source other than the owner) would exceed the monetary limitation placed on his license. If a contractor holds a license with more than one classification with different monetary limits, the monetary limits shall not be combined to bid a project.

0680-01-.16 CLASSIFICATION SYSTEM

BC – Building Construction

A. Residential—"Residential building contractors" are those whose services are limited to construction, remodeling, repair, or improvement of one (1), two (2), three (3), or four (4) family unit residences not exceeding three (3) stories in height and accessory use structures in connection therewith.

1. Limited Residential (r)-A limited residential contractor is authorized to bid on and contract for the remodel, repair, or improvement of single family dwellings the total cost of which does not exceed seventy thousand dollars (\$70,000.00).

B. Commercial-A commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public, including residential construction with more than four (4) units or greater than three (3) stories in height.

2. Small Commercial (b)-A small commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public the total cost of which does not exceed seven hundred and fifty thousand dollars (\$750,000.00).

C. Industrial-A contractor under this classification is authorized to bid on and contract for the erection, alteration, repair and demolition of buildings or structures used for industrial production and service, such as manufacturing plants.

Note: The license classifications for building are: BC-A (Residential); BC-B (Commercial); BC-b(sm) (Small Commercial); BC-C (Industrial); and combinations include BC (Residential, Commercial and Industrial); or BC-A,B; or BC-A,B(sm); or BC-B,C; etc., and BC-A/r (Restricted – Limited Residential).

Building Categories

1. Each building category may apply to any major construction classification.
2. Pursuant to T.C.A. § 62-6-113, a contractor may not be licensed in six (6) or more categories under any one (1) major classification without successfully passing the written or oral examination, or both, for the major classification.

1. Acoustical Treatments
2. Carpentry, Framing and Millwork, etc.
3. Drywall
4. Floor Covering
5. Foundations
6. Glass, Window and Door Construction
7. Institutional and Recreational Equipment
8. Lath, Plaster, Stucco, and Aluminum Siding
9. *Masonry -under (\$100,000.00), including materials and labor (See "LMC" for over \$100,000)
10. Ornamental and Miscellaneous Metal
11. Painting, Interior Decorating
12. Roof Decks
13. Site and Subdivision Development
14. Special Coatings and Waterproofing
15. Tile, Terrazzo and Marble
16. Insulation
17. Elevators, Escalators, and Dumbwaiters
18. Erection and Fabrication of Structural Steel
19. Concrete
20. Sheet Metal
21. *Roofing-includes gutters and vinyl siding
22. Conveyors
23. Sandblasting
24. Golf Courses
25. Tennis Courts
26. Swimming Pools
27. Outdoor Advertising
28. Excavation
29. Landscaping
30. Fencing
31. Demolition
32. Millwright
33. Irrigation
34. Scaffolding

*License required as subcontractor for masonry and roofing

Note: Examples of license classifications for building categories are as follows: BC-1 (Acoustical Treatments); BC-21 (Roofing); BC-2,3,11 (Carpentry, Drywall, and Painting), etc.

HC – Heavy Construction

- A. Marine
(Wharves, Docks, Harbor Improvements and Terminals)
- B. Tunnel and Shaft
- C. Energy and Power Plants
- D. Dams, Dikes, Levees and Canals
- E. Mining Surface and Underground
- F. Oil Field Construction
- G. Oil Refineries
- H. Storm Damage Cleanup
- I. Landfill Construction

Heavy Construction Categories (Apply to All Areas)

1. Structural Steel Erection
2. Tower and Stack Construction
3. Foundation Construction, Pile Driving, Foundation Drilling, and Stabilization
4. Demolition and Movement of Structures
5. Clearing, Grubbing, Snagging and Rip Rap
6. Slipform Concrete Structures
7. Rigging and Crane Rigging
8. Welding

HRA - Highway, Railroad and Airport Construction

A. Grading and Drainage-Includes grading, drainage pipe and structures, clearing and grubbing.

B. Base and Paving

1. Base Construction
2. Hot and Cold Mix Asphalt
3. Surface Treatment Asphalt
4. Concrete Paving

C. Bridges and Culverts

1. Painting
2. Repair
3. Demolition
4. Bridge Deck Overlay (Sealant)
5. Gunite
6. Cofferdam
7. Steel Erection

D. Railroad Construction and Related Items

E. Miscellaneous and Specialty Items

1. Traffic Safety

(a) Pavement Markers

(b) Signing

(c) Guardrail and Fencing

(d) Attenuators, signalization and roadway lighting

2. Landscaping-Includes seeding, sodding, planting, and chemical weed and brush control.

3. Pavement Rehabilitation-Includes pressure grouting, grinding and grooving, concrete joints, and underdrains.

4. Well Drilling

5. Miscellaneous Concrete-Includes sidewalks, driveways, curb and gutter, and box culverts.

MU – Municipal and Utility Construction

Municipal and Utility Construction includes all supervision, labor, material and equipment to complete underground piping, water and sewer plants and sewer disposal, grading and drainage, and paving (unless restricted to specific areas named).

A. Underground Piping-Furnish supervision, labor, material and equipment to complete all underground piping for municipal and utility construction (unless restricted to specific areas names).

1. Gas Distribution and Transmission Lines
2. Sewer Lines, Storm Drains, Rehabilitation and Structures
3. Waterlines
4. Underground Conduit

B. Water and Sewer Systems*-* Classification BC-B is necessary in order to construct water and sewer plants.

C. Grading and Drainage-Includes grading, drainage pipe and structures, clearing and grubbing.

D. Base and Paving

1. Base Construction
2. Hot and Cold Mix Asphalt
3. Surface Treatment Asphalt
4. Concrete Pavement

5. Miscellaneous Concrete (includes sidewalks, driveways, curb and gutter, and box culverts)

MC (CMC) – Mechanical Contracting (the classification CMC is noted on licenses issued after 1992 and represents that the licensee has passed the Board licensing exam and that no county or municipality shall require such state licensee or its employees to pass any county or municipal test or examination pursuant to T.C.A. § 62-6-111(i)(2)(C)).

- A. Plumbing and Gas Piping
- B. Process Piping
- C. HVAC, Refrigeration, Gas Piping
- D. Sprinklers & Fire Protection
- E. Insulation of Mechanical Work
- F. Pollution Control
- G. Pneumatic Tube Systems
- H. Temperature Controls (Pneumatic)
- I. Boiler Construction & Repairs
- J. Fuel Gas Piping and Systems

Stopped - Note: Example of

LMC-Licensed Masonry Contractor

E (CE) - Electrical Contracting (the classification CE is noted on licenses issued after 1992 and represents that the licensee has passed the Board licensing exam and that no county or municipality shall require such state licensee or its employees to pass any county or municipal test or examination pursuant to T.C.A. § 62-6-111(i)(2)(C)).

- A. Electrical Transmission Lines
- B. Electrical Work for Buildings and Structures
- C. Underground Electrical Conduit Installation
- D. Sound and Intercom Systems, Fire Detection Systems, Signal and Burglar Alarm Systems and Security Systems up to seventy (70) volts do not require examination-*Please note that a separate license, issued by the Tennessee Alarm Systems Contractors Board, is also required for alarm systems.
- E. Electrical Signs
- F. Telephone Lines and Ducts
- G. Cable T.V.
- H. Substations
- I. Electrical Temperature Controls
- J. Fire Detection Systems, Signal and Burglar Alarm Systems and Security Systems with conduit and wiring above seventy (70) volts require an electrical exam.
- K. Roadway Lighting, Attenuators and Signalization - requires electrical examination.
- L. Electric Meter Installation

S – Specialty The Board will utilize the system of classifications set forth in Appendix A. The Board reserves the right to depart from the classification system in appropriate individual cases.

Example of Specialties: S-Equipment Installation; S-Audio Video; S-Cell Towers;

S - Specialty/Environmental work falling within the definition of contracting pursuant to T.C.A. § 62-6-102.

- A. Asbestos Material Handling/Removing
- B. Underground Storage Tank
- C. Lead-Based Paint Abatement
- D. Hazardous Waste Removal
- E. Air, Water or Soil Remediation
- F. Mold Remediation

Example: “S-A” would cover Asbestos Material Handling/Removing.

0680-01-.18 UNLAWFUL BIDDING.

Unlawful Contracting. No person, firm or corporation who engages or offers to engage in “contracting”

(as defined in T.C.A. § 62-6-102) without a valid contractor's license, or in violation of the terms and conditions of such license, shall be awarded any contract for the project, upon which it engaged in contracting without a license, or permitted to participate in any re-bidding of the project.

0680-01-.24 BIDDING PROCEDURES.

(1) Pursuant to T.C.A. § 62-6-102, a subcontractor is required to be licensed in order to perform electrical, plumbing, heating ventilation and air conditioning work when the amount is twentyfive thousand dollars (\$25,000.00) or more; and masonry work when the amount is one hundred thousand dollars (\$100,000.00) or more, including materials and labor. It is the subcontractor's responsibility to furnish evidence to the prime contractor of an active license with the appropriate name, classification, monetary limit, and expiration date, regardless of how the bid is transmitted. Failure to comply with this rule shall not require nonconsideration of the subcontractor's bid, if appropriately licensed, but said subcontractor may be subject to discipline by the Board.

(2) Any prime contractor submitting a bid pursuant to T.C.A. § 62-6-119(b) shall list on the outside of the bid envelope or in the submission of an electronic bid only one electrical contractor, one plumbing contractor, one heating ventilation and air conditioning contractor, and one masonry contractor with appropriate classification and monetary limit or the bid shall not be considered. Award of the subcontract to one not listed on the base bid envelope or in the submission of an electronic bid in violation of T.C.A. § 62-6-119 will be subject to review and disciplinary action by the Board.

Authority: T.C.A. §§ 62-6-102, 62-6-103, 62-6-108, 62-6-111, 62-6-119. **Administrative History:** Original rule filed January 31, 1996; effective April 16, 1996. Repeal and new rule filed July 25, 2011; effective October 23, 2011.

0680-01-.25 CONTRACTING IN CORRECT NAME; CHANGE OF NAME.

(1) Upon receiving a certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity's licensure status. Contracting in a name different than that in which an individual or entity is licensed by this Board is considered a violation of this chapter, and will be cause for appropriate disciplinary action.

(2) In the event of a name change of a licensee, the licensee must complete an application request for a name change and be approved prior to contracting in the new name. The licensee shall have ninety (90) days from the date that the new entity is formed to apply for a license in the new entity name. The licensee cannot bid on or enter into contracts in the new name until it has been issued a revised license; however, the entity may continue to work on already existing contracts that were entered into prior to the name change, provided the application is made within the ninety (90) day period.

Authority: T.C.A. §§ 62-6-103, 62-6-108 and 62-6-115. **Administrative History:** Original rule filed July 25, 2011; effective October 23, 2011.

General Information

Confirming the License of a Contractor or Subcontractor

- To ensure contractors are properly licensed with the appropriate license classification, monetary limit, current expiration date, active status and the exact name as licensed, you may request a copy of their license for evidence; however it is best to confirm their status at the Board's website at the "Verify a License" search link at:
<http://verify.tn.gov/>
- Our website also provides a list of tips on how best to search for a license at:

<http://www.tn.gov/regboards/contractors/documents/LicenseRosterSearchTips.pdf>

- To obtain an electronic roster of licensed contractors, you may download this information, free of charge, from the “Reports and Data” at:
<http://tdcdata.tn.gov/default.aspx>

Most Common Reasons for Bid Rejection

The following are the most frequent inquiries we receive which end up as law violations and provide a reason for rejection or protest by another bidder:

- Bid in a name or mode of operation other than as licensed (Rule 0680-1-.25)
- Prime contractor listed a subcontractor’s name other than as licensed (Rule 0680-1-.25)
- Prime contractor listed an improperly or unlicensed subcontractor (Rule 0680-1-.24)
- Prime contractor deducted materials and equipment of subcontractor’s contract to enable subcontractor to contract for a lesser amount (see Rule 0680-1-.13)
- Bid in excess of their contractor’s license monetary limit more than the 10% tolerance (see Rule 0680-1-.13)
- Bid prior to the license getting renewed (no grace period; supply renewal 30 days prior to expiration to prevent contracting with an expired license – see T.C.A. § 62-6-116; and Rule 0680-1-.18)
- Bid over limit by not including profit or the cost of land in the total contract (see Rule 0680-1-.13)

License Search Tips and Status Definitions

Always check to ensure the license has both an “Active” status with a current “Expiration” date. You may check from the “License Search” tools on the Board’s website or directly at: <http://verify.tn.gov/> See “Search Tips” for assistance with searching a license.

Status, Expiration Date, Types & Name

Always check the “**Status**” and the “**Expiration Date**” to see if the licensee is properly licensed, as well as the “**Name**” as licensed and that is for a “**Contractor**”. Some work may require more than one (1) state license, such as those issued by: Alarm Systems Contractors Board; Division of Fire Protection for Fire Sprinklers; etc. Contractors from other states must obtain a Tennessee license (cannot use an Arkansas license).

Owner of License

Licenses are issued to an entity, such as a sole proprietor, corporation, limited liability company (LLC), and partnerships. The license is issued in the name of the entity providing the financial statement, which is the same as the name on the certificate of insurance, as well as by the name registered with the Secretary of State. Therefore, the Qualifying Agent (QA) does not own the license unless they also own the business entity. Only the owner of the license may use the license to contract.

Therefore, family members cannot all work individually under one license and would be limited to working as an employee. For example, “John Doe” could not operate as “Doe’s Quality Building” and use his sister’s license, “Mary Doe’s Construction”. He could work as an employee for Mary Doe’s Construction, but cannot contract or perform work for his own business.

Search Tips

Licenses for all of our contractor license programs, along with others within the Division of Regulatory Boards, are all listed on the “License Search” site at: <http://verify.tn.gov/> Search tips are also available at: <http://www.tn.gov/regboards/contractors/documents/LicenseRosterSearchTips.pdf>

The Board for Licensing Contractors has various professions: **Contractors, Home Improvement, Limited Licensed Electricians, Limited Licensed Plumbers, and Prelicensed Exam Course Providers**. All of our licensees, except for “Limited Licensed Plumbers”, are searchable online by the “**Last Name/Firm**” field”, only. It will not recognize the “First” name field, except for the “Limited Licensed Plumbers” who are set up differently in the system to be licensed as individuals. Also, the system is very sensitive and licensees will only display if entered in the exact correct name as licensed,

and it is best to **use only one field**, such as the license number or first word or part of the business name. You may use the special search tool (percentage (%) sign) in front of the name. This site does not allow cross referenced searches by the “individual” owners of the license when they are licensed as a “business” entity name. License numbers are duplicated, but not within the same program. Unless you limit a search to a “Profession” such as “Contractors”, it will bring up all licensees with the same license number (*Accountants, CPA’s, Auctioneers, Architects, Barbers, Home Improvement, etc.*).

The following are tips to assist in searching from the website:

- For best results, search by only one (1) criteria, using partial information in one field, such as: Doe Construction - search by entering only **%Doe** in the first “Firm Name”, only;
- Licensees as Contractors, Home Improvement, and Limited Licensed Electricians are licensed as organizations by “**Firm Name**”; do not enter a “First” name section;
- If there is a period (.) in the name, include as part of the search (Example: “A.B.C.” instead of “ABC”)
- Should they hold a license as: “Doe, John”, enter “Doe” as the firm name or try “John” (*depends on how they’ve been approved for a license and entered on their application*)
- If you know only part of the name, you may enter a percent sign % in front of the name, such as: %Jon - and it will bring up all licenses with “Jon” in the name; and
- You may limit your search to a certain profession by scrolling to only one, such as: Contractors; Limited Licensed Electricians; Home Improvement; or Limited Licensed Plumbers.

Details of Licensees

After pulling up a licensee, you may check details on the licensee such as their status and expiration date. For “Contractors”, you may also look up their license **classification** and **monetary limit** by clicking onto “**Details**” box next to the “License #”. The “status” is actually tied to our Board’s database, and the last transaction of the licensee. Therefore, you must also rely on the **expiration date**. Changes processed during the day will not show up until the next business day (*updated within 24 hours*).

The following are status codes:

- **Active w/ Current Expiration Date - Acceptable**
 - Active and has a current un-expired date; considered properly licensed.
 - Active status with an expired date; considered unlicensed. They have renewal rights but cannot operate, contract or bid on projects, regardless of active status.
 - Active status, but shows license **expired** means they may have submitted a renewal, but it has not been approved for issuance due to lacking required information; or submitted late. Typically takes 30 days to process. Considered **unlicensed** if their **expiration date** is not current and would not be able to contract or bid.

Active licensees may only operate if their expiration date is current and has not expired or retired. There is not a grace period to allow working on a license while the renewal is pending for issuance.

- **App in Proc (Application in Process)**
 - Application for a new license has been received and awaiting Board review for approval and issuance. Licensee cannot operate until Board meets and license issued with current expiration date.
 - Only exception is for “**Hardship**” approvals
- **Inactive w/ Current Expiration Date – Unacceptable**
 - May be due to needing a Qualifying Agent or placing license in “Retired” status.

Classification and Monetary Limit Details

Only the “Contractors” professions within our program are assigned license **classifications** and **monetary limits**. To check the classification codes of a contractor, you may go to the Board’s website and click onto [“Contractor Classifications Outline”](#)

For example, a contractor building residential homes would need a classification as: BC-A (residential) or BC (residential, commercial, and industrial). Electrical contractors would have a CE classification; etc. See "Contractor Classifications Outline" from the Rules 0680-1-16. A contractor is required to have a classification to cover 60% of the project or hold a commercial (BC-B or BC) in order to bid or contract a project. However, any portion \$25,000 or more which is not covered by their classification, they would be required to subcontract to a properly licensed contractor to perform the work. .

All other licensee professions: Limited Licensed Electricians; Limited Licensed Plumbers; and Home Improvement Contractors; are limited to projects **less than \$25,000** and do not have classifications or monetary limits designated on the details.

Resources

Board for Licensing Contractors Website

<http://www.tn.gov/regboards/contractors/>

To review the Law:

<http://www.lexisnexis.com/hottopics/michie/>

To review the Rules:

<http://www.tn.gov/sos/rules/0680/0680.htm>

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