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DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL**

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September 27, 2012

Office of the Tennessee Secretary of State
Cody York, Director
Division of Publications
312 Rosa L. Parks Avenue, Snodgrass Tower, 8th Floor
Nashville, TN 37243

***RE: Tennessee Board for Licensing Contractors
Submission of Rules signed by Tennessee Attorney General***

Dear Mr. York:

I serve as legal counsel for the Tennessee Board for Licensing Contractors. Please find enclosed five (5) original copies of the Board's rules which have been signed by the Tennessee Attorney General along with a redline version of the rules.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Jenny Taylor
Assistant General Counsel
Tennessee Board for Licensing Contractors
Tennessee Department of Commerce & Insurance

cc: Carolyn Lazenby – Tennessee Board for Licensing Contractors
Executive Director

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Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Board for Licensing Contractors
Division:	
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0680-01	Licensing
Rule Number	Rule Title
0680-01-.13	Monetary Limitations
0680-01-.16	Appendix A of Rule 0680-01-.12 (Classifications System)
0680-01-.26	License Requirement for Property Owners
0680-01-.27	Misconduct
0680-01-.28	Emergency Actions
0680-01-.29	Limited Residential License

Chapter Number	Chapter Title
0680-04	Limited Licensed Plumbers
Rule Number	Rule Title
0680-04-.05	License Renewal

Chapter 0680-01
Licensing

Amendments

Rule 0680-01-.13 Monetary Limitations is amended by deleting the rule in its entirety and by substituting the following language so that as amended the rule shall read as follows:

Rule 0680-01-.13 Monetary Limitations

- (1) Generally, the monetary limitation placed on a classification of a license may be determined as follows:
 - (a) For applicants having no apparent deficiency with respect to plant or equipment, the lesser of:
 1. ten (10) times the applicant's net worth; or
 2. ten (10) times the applicant's working capital. Accounts receivable that are more than three (3) months overdue may not be included within the calculation of working capital.
 - (b) At the Board's discretion, renewal applicants having no apparent deficiency with respect to plant or equipment, but with limited working capital, the greater of:
 1. ten (10) times the applicant's working capital; or
 2. fifty percent (50%) of the applicant's net worth.
 - (c) For other applicants, a lesser amount reflecting the degree of lack of plant or equipment.
- (2) Lines of credit and indemnities (on forms furnished by the Board) may be considered to raise a monetary limitation. Lines of credit may be added up to its full value to the working capital. Credit for indemnities will be limited to fifty percent (50%). However, if the applicant has a negative working capital, lines of credit will be recognized at fifty percent (50%) of value.
- (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.

Authority: T.C.A. §§ 62-6-108, 62-6-111, 62-6-116.

Rule 0680-01-.16 Appendix A of Rule 0680-01-.12 (Classifications System) is amended by deleting the rule in its entirety and by substituting the following language so that as amended the rule shall read as follows:

Rule 0680-01-.16 Appendix A of Rule 0680-01-.12 (Classifications System)

Outline of Classifications

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.

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. Lathe, Plaster, Stucco, and Aluminum Siding
 - 9. Masonry -under one hundred thousand dollars (\$100,000.00), materials and labor
 - 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

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. Guniting
 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

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.

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

In each of the above environmental classifications, the following requirements apply:

1. In order to be eligible for licensure in this specialty classification, the applicant shall

furnish evidence satisfactory to the Board that the designated employee(s) shall have completed all training courses as required by the applicant state and federal agencies. In the event training courses are unavailable, the applicant's education, training, experience and equipment will be determined and considered in order to qualify the applicant for licensure.

2. A contractor holding a license in this specialty classification shall, as a condition for renewal of such license, keep abreast of all applicable state and federal requirements to ensure "state of the art" handling and removing of above materials by requiring its designated employee(s) to do so.

3. A contractor shall, whenever work in this specialty classification is in progress, have physically on the job site the designated employee(s) directly responsible for the work.

4. A contractor shall notify the Board of any citation lodged against it, or any of its employees, relative to work in a specialty classification within ten (10) days of receipt of the citation.

S-Specialty/Medical Gas Piping installation, maintenance and repair work falling within the regulation of medical gas piping pursuant to T.C.A. § 68-11-253.

A. Medical Gas Piping Installer Certification Requirements.

1. The minimum qualifications for board certification are the qualifications for certification established by the American Medical Gas Institute (AMGI) or the Piping Industry Progress and Education Trust Fund (PIPE). A minimum of thirty-two (32) hours of training, with eight (8) of such hours in brazing, shall be required for board certification. The board shall from time to time revise minimum qualifications for board certification to include the most current edition of NFPA 99C "Standard on Gas and Vacuum Systems."

(a) The minimum of thirty-two (32) hours of training for board certification as a medical gas installer shall include training in the following areas from the most current edition of NFPA 99C, Gas and Vacuum Systems:

- (1) Medical Gas Systems.
- (2) Gas Distribution Systems.
- (3) Installation of Pressurized Gas Systems.
- (4) Vacuum Piping.
- (5) Brazing Techniques for Medical Gas Systems.
- (6) Requirements for Levels of Patient Care.

2. The board may designate and approve independent examining agencies, as necessary, to provide the training and examinations necessary for board certification required by T.C.A. § 68-11-253. The board will review an examining agency's curriculum prior to its designation to determine compliance with the minimum qualifications listed above in A.1.(a).

3. The designated examining agency may charge reasonable fees for training and examination as determined appropriate by the board.

Authority: T.C.A. §§ 62-6-108, 62-6-112

Chapter 0680-04
Limited Licensed Plumbers

Amendment

Rule 0680-04-.05 License Renewal is amended by deleting subsection three (3) in its entirety and by substituting the following language so that as amended the new subsection shall read as follows:

- (3) License renewals that are received fewer than thirty (30) days before the license expiration will be subject to late renewal penalties of ten percent (10%) per month (or fraction thereof), with the total fee not to exceed twice the normal renewal fee, and renewal applications received subsequent to ninety (90) days after expiration will be treated as new applications for licensure.

Authority: T.C.A. §§ 62-6-108, 62-6-405, and 62-6-411

Chapter 0680-01
Licensing

New Rules

Table of Contents

0680-01-.26	License Requirement for Property Owners
0680-01-.27	Misconduct
0680-01-.28	Emergency Actions
0680-01-.29	Limited Residential License

Rule 0680-01-.26 License Requirement for Property Owners

The license exemption stated in T.C.A. § 62-6-103(2)(A) pertains to any person, firm, church, or other religious institution that owns property and constructs on the property single residences, farm buildings or other buildings for individual use. This exemption does not apply to construction pertaining to resale, lease, rent or other similar purpose. The exemption does not apply to persons constructing buildings for a business-type purpose that cater to and depend upon usage by members of the general public.

Authority: T.C.A. §§ 62-6-103, 62-6-108

Rule 0680-01-.27 Misconduct

The following acts may constitute misconduct and may result in disciplinary action against licensees including possible revocation or suspension of license. The acts include, but are not limited to:

- (1) Failure to cooperate with open investigation related to a complaint filed with the Board. This includes failure to respond in writing to any communication from the Board requesting a response within thirty (30) days of mailing such communication by registered or certified mail to the last address furnished to the Board by the licensee.
- (2) Failure to abide by warranty agreement.
- (3) Pulling a building, electrical, plumbing, or like permit for a job in which an unlicensed contractor is acting as the general contractor.
- (4) Failure to maintain worker's compensation if insurance is required by Tennessee statute.
- (5) Revocation, suspension, or voluntary surrender of contractor's license in another jurisdiction.
- (6) Failure to pay a civil judgment rendered against the contractor by a court of competent jurisdiction if related to the contracting industry.

- (7) Failure to respond to customer inquiries regarding completion of work and/or dissatisfaction with quality of work.

Authority: T.C.A. §§ 62-6-108, 62-6-111, 62-6-118, 62-6-121

Rule 0680-01-.28 Emergency Actions

- (1) The Executive Director is permitted to approve increases in the monetary limits and to consider timely licensure applications or renewal applications for which there are no evident impediments to licensure and for which loss of substantial business is imminent if licensure is delayed. The Executive Director shall obtain consent of at least one (1) Board member for purposes of considering the issuance of the temporary license.
- (2) The application for a temporary license may be denied or delayed in order to request more information regarding a contractor's financial statement or any other issue which is deemed to have a possible detrimental effect to the public safety and welfare.
- (3) Notice of emergency actions shall be posted on the board's website and shall be scheduled as the first agenda item at the next scheduled meeting of the Board in order that the Board may review and, in its discretion, modify the actions of the executive director.
- (4) Applicants who wish to apply for an emergency license shall submit the following:
 - (a) Contractor's License Application
 - (b) Written request from the project owner describing the hardship and letter must include: details of the hardship; reason the emergency application process should be utilized; reason for requiring the use of the applicant contractor as opposed to a currently licensed contractor; description of the project and location; and the bid date, if applicable.

Authority: T.C.A. §§ 62-6-108, 62-6-109, 62-6-111

Rule 0680-01-.29 Limited Residential License

- (1) The Limited Residential License allows for the remodel, repair, or improvement of single family dwellings in which the total cost does not exceed seventy thousand dollars (\$70,000.00).
- (2) The ten percent (10%) tolerance for monetary limitations as stated in Rule and Regulation 0680-01-.13 is not applicable to the Limited Residential License.
- (3) The financial statements for Limited Residential License must reflect a positive net worth and positive working capital.
- (4) The Limited Residential License applicant shall provide proof of any relevant experience in order to qualify for licensure.
- (5) The applicant must participate in a restricted residential license three day course as approved by the Board. The course may be taken at any community college approved by the Board. These courses are found on the Board website.
- (6) The Limited Residential Licensee may upgrade the license by taking an appropriate trade exam.

Authority: T.C.A. §§ 62-6-108, 62-6-111

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
William (Bill) Mason	X				
Mark Brodd	X				
Keith Whittington	X				
Ronnie Tickle	X				
Cindi DeBusk	X				
Marvin Sandrell	X				
Reese Smith				X	
Jerry Hayes				X	
Ernest Owens				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board for Licensing Contractors on 03/28/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/06/12

Rulemaking Hearing(s) Conducted on: (add more dates). 03/28/12

Date: 8-29-12

Signature: Jenny Taylor

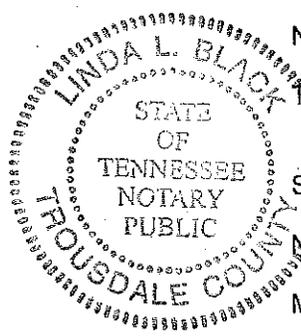
Name of Officer: Jenny Taylor

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: August 29th 2012

Notary Public Signature: Linda L. Black

My commission expires on: 4/5/16



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

REC Cooper
 Robert E. Cooper, Jr.
 Attorney General and Reporter
9-16-12
 Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Rule 0680-01-.13

A written comment was received from Attorney Buckley Cole requesting that the rule be amended to state that a parent company would only have to agree to guarantee for a subsidiary company all debts and obligations owed to the Board as opposed to all debts and obligations arising out of contracting activities.

Attorney Buckley Cole, Attorney John P. Williams, Susan Ritter and Mitzi Spann of the Homebuilders Association of Tennessee subsequently requested to speak to the full Board regarding concerns about the guaranty agreements. The Board voted at the July 24, 2012 Board meeting to not proceed with the amendments to Rule 0680-01-.13 relating to guaranty agreements and to hold another rulemaking hearing in the future to address these issues.

Rule 0680-01-.16

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the limited residential contractor category added to Paragraph A. Mr. Wix commented that it is difficult to build a home for seventy thousand dollars (\$70,000.00) and suggested raising the monetary limitation on this license category.

A written comment from director of the Corporate Training Workforce Development and Continuing Education at Chattanooga Community College commented that the seventy thousand dollar (\$70,000.00) limit is unfair due to the increases in the consumer price index. The director requested that the limit be raised to one hundred and twenty five thousand dollars (\$125,000.00.)

The Board responded by stating that the limited residential contractor category was created to allow inexperienced contractors time to develop contracting skills on smaller jobs. The Board doesn't wish to increase the limit because no exam is required for this license classification. If the contractors want a larger limit then they should have to apply for the general contractor's license and take the exam. The seventy thousand dollars (\$70,000.00) may limit contractors from building a home from the ground up but appears to be sufficient for residential remodeling projects. The Board encourages contractors with this classification to go ahead and obtain the general contractor's license after a few years of having the limited residential license. The Board voted to change the language describing the limited residential license from "construction of single family dwellings" to "remodel, repair, or improvement of single family dwellings."

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the one hundred thousand dollar (\$100,000.00) masonry license and asked whether this was a new category or not.

The Board response is that this rule change was made in 2011 rulemaking.

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the changes to the Roofing Building Category which was addition of language "gutters and vinyl siding. Mr. Wix questioned whether a license would be needed if the vinyl is a separate bid on a commercial job and over twenty five thousand dollars (\$25,000.00.)

The Board responded in the affirmative.

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the addition of "scaffolding" as a building category and questioned what it means.

The Board responded that this applies to the set up of scaffolding where total cost is over twenty five thousand dollars (\$25,000.00.)

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the addition of "Storm Damage Cleanup" as a Heavy Construction category and questioned what it means.

The Board responded that this pertains to excavation and cleanup of storm debris. The Board clarified that someone with an "excavation" license could also perform this work.

Larry Wix, an inspector for the Department of Commerce and Insurance, commented on the addition of "Landfill Construction" as a Heavy Construction category and questioned what it means.

The Board responded that the license was issued as a specialty license in the past and this category clarifies that a license is needed.

Rule 0680-01-.20

Assistant Commissioner Bill Giannini commented that he would like the Board to consider foregoing any fee increases relating to name changes, classification additions, and requests for monetary limitation increases and to examine the current fee structure.

The Board voted to strike the amendment to the rule at this time and to examine the fee structure at a later date.

Rule 0680-04-.05

Larry Wix, an inspector for the Department of Commerce and Insurance, questioned whether there was any grace period on the expiration date of a license.

The Board responded that there is no grace period however, if a licensee renews within the ninety (90) day renewal period then they can renew as opposed to applying for a new license.

Rule 0680-01-.27

Mr. David Whitt commented that the rule doesn't go far enough and specifically requested that a rule be added stating that a builder is guilty of misconduct if he is found guilty of violating a building code and not going back within a thirty (30)-day period and repairing the code violation after being notified.

The Board responded that failing to comply with codes is already considered misconduct and that two of the grounds in the proposed rule pertain to this issue. The grounds regarding failure to abide by a warranty agreement and failure to respond to customer inquiry regarding dissatisfaction appear to cover the situations that Mr. Whitt is concerned about. The Board also stated that code compliance on commercial projects is the responsibility of an architect as opposed to the contractor. The contractor has an obligation to build to the architectural design.

Rule 0680-01-.29

A written comment from the director of the Corporate Training Workforce Development and Continuing Education at Chattanooga Community College stating that their current course is four (4) days for a total of thirty (30) hours. They would consider increasing the minimum hours and requirements if tied to an increase in the monetary limitation on the license.

The Board voted to change the language in the rule from "three day course as approved by the Board" to "a course as approved by the Board."

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:
There is no overlap, duplication, or conflict with other federal, state or local governmental rules.
2. Clarity, conciseness, and lack of ambiguity in the rules:
The rules are clear in purpose and intended execution. The rules are not open to different interpretations.
3. Flexible compliance and/or reporting requirements for small businesses:
Regarding new rule 0680-01-.27, it is imperative to the health, safety, and welfare of the citizens of Tennessee that licensed contractors refrain from misconduct in the practice of contracting. The new rule clarifies what actions the Board may find to constitute misconduct and be grounds for disciplinary action by the Board.
4. Friendly schedules or deadlines for compliance and/or reporting requirements:
Rule 0680-04-.05 is amended to reflect the ninety (90) day time period for renewals on limited plumbing licenses which is required by statute. This means that any application filed after ninety (90) days will be treated as a new application. This time period is not a new requirement but only a correction to the previous language of the rule which failed to reflect the correct statutory language.
The rules will not take effect until after a public rulemaking hearing and ninety (90) days have passed since the time of filing with the Secretary of State.
5. Consolidation or simplification of compliance or reporting requirements:
The Department is working to clarify the rules which should reduce conflicts and possibilities for confusion and should result in simplification of compliance. Rule 0680-01-.16 is amended to add license classifications which the Board previously issued as specialty licenses or to clarify definitions of existing classifications. The purpose of the rule is to clarify what types of the work require a license from the Tennessee Board for Licensing Contractors.
New rule 0680-01-.26 is a clarification upon the already existing license exemption.
New rule 0680-01-.28 describes the exact process by which an applicant may obtain a temporary license.
New rule 0680-01-.29 describes the process of applying for a license included within the residential construction classification.
6. Performance standards for small businesses:
The Tennessee Board for Licensing Contractors expects all businesses, regardless of size, to follow the new requirements.
7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:
None of the proposed rules appear to stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement:

1. Types of small businesses directly affected:

A small business that holds a contractor's license will be affected but there is no foreseeable impact specifically affecting small businesses in general.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in small business reporting or recordkeeping that will result from the promulgation of these rules.

3. Probable effect on small businesses:

There is no foreseeable substantial effect on small businesses by the imposition of the rules.

4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses regarding licensing requirements; regarding licensure in the appropriate classification; and, regarding misconduct arising out of contracting activities. An exemption of small businesses from the aforementioned requirements could be a detriment to health, safety and welfare of the citizens of Tennessee.

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." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rules are not expected to 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 T.C.A. § 4-5-226(i)(1).

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

Rule 0680-01-.13 Monetary Limitations changes the word "will" to "may" regarding what factors the Board will use in determining monetary limitations for applicants or licensees. There is also language added regarding accounts receivable and limiting the situations they can be used in determining capital worth of an applicant or licensee.

Rule 0680-01-.16 Appendix A of Rule 0680-01-.12 (Classifications System) adds several informational notations on existing license classifications and adds license classifications for activities the Board determines to fall within the definition of contracting.

Rule 0680-01-.26 License Requirement for Property Owners is a new rule clarifying the license exemption found in T.C.A. § 62-6-103(2)(A). The rule clarifies that property owners are not exempt to build commercial properties because this does not fall under the "individual use" exemption.

Rule 0680-01-.27 Misconduct is a new rule stating acts that may constitute "misconduct" per T.C.A. § 62-6-118(a) and may be grounds for disciplinary actions. These grounds are not exclusive.

Rule 0680-01-.28 Emergency Actions is a new rule detailing emergency actions that may be taken by the Executive Director without a meeting of the Board pursuant to T.C.A. §§ 62-6-109(g) and 62-6-111(b)(1).

Rule 0680-01-.29 Limited Residential License is a new rule describing the process by which the Limited Residential License is issued by the Board per T.C.A. § 62-6-112(e).

Rule 0680-04-.05 License Renewal is amended in order to correct the rule to coincide with statutory language stating that a new application is required subsequent to ninety (90) days after expiration.

- (B) 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;

T.C.A. § 62-6-108 provides that the Tennessee Board for Licensing Contractors "has the power to make bylaws, rules and regulations not inconsistent with the laws of this state that it deems best, subject to the final approval of the commissioner of commerce and insurance."

T.C.A. § 62-6-109(g) provides that "the board may specify by rules and regulations specific board actions that may be taken by the executive director without a meeting of the board. The actions shall be limited to increases in the monetary limits and timely consideration of licensure applications or renewal applications for which there are no evident impediments to licensure and for which loss of substantial business is imminent if licensure is delayed. Notice of emergency actions shall be posted on the board's website and shall be scheduled as the first agenda item at the next scheduled meeting of the board in order that the board may review and, in its discretion, modify the actions of the executive director."

T.C.A. § 62-6-111(b)(1) provides that "the board shall promulgate rules and regulations that establish uniform criteria to govern issuance by the board of the classifications and monetary limitations required by subdivision (a)(3). The board shall have discretionary authority in individual cases to modify the criteria for an applicant if the public safety and welfare clearly require modification and if the board furnishes the applicant with a written statement justifying modification."

T.C.A. § 62-6-112(b) provides that "the board shall promulgate by rules or regulations specialty classifications required under each major classification set out in subsection (a). Issuance of a license by the board to a contractor in any major classification automatically includes issuance of a license to the contractor in all specialty classifications included under the major classification."

T.C.A. § 62-6-112(e) provides that "the board may promulgate rules or regulations establishing subclassifications within the residential construction classification for which a limited license may be issued to an

applicant who has successfully completed a seminar sponsored by the board in lieu of the written or oral examination, or both, and who has otherwise complied with the requirements of this part."

- (C) 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;

Persons who are licensed as contractors pursuant to Title 62, Chapter 6, Sections 1 and 4 will be most directly affected by these rules.

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

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- (E) 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 (\$500,000.00), whichever is less;

The rules are expected to have no impact on state and local government revenues.

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

Jenny Taylor, Assistant General Counsel, Department of Commerce and Insurance
Carolyn Lazenby, Executive Director for the Tennessee Board for Licensing Contractors

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

Jenny Taylor, Assistant General Counsel, Department of Commerce and Insurance
Carolyn Lazenby, Executive Director for the Tennessee Board for Licensing Contractors

- (H) 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

500 James Robertson Parkway
Nashville, Tennessee 37243
(615) 741-3072

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.