

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
TENNESSEE HOME IMPROVEMENT COMMISSION**

**CHAPTER 0765-1
GENERAL REGULATIONS**

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0765-1-.01 FEES.

- (1) Initial application and license fee..... \$150.00 per business location
- (2) Renewal fee..... \$125.00 per business location
- (3) Duplicate license fee for one lost, destroyed or mutilated \$10.00

Authority: T.C.A. §§ 62-37-106 and 62-37-115(4). *Administrative History:* Original rule filed July 14, 1989; effective August 28, 1989. Repeal and new rule filed December 9, 2005; effective February 22, 2006.

0765-1-.02 DEFINITIONS.

The definitions contained in T.C.A. § 62-37-103, are incorporated into these regulations by references as 0765-1-.02.

Authority: T.C.A. §§ 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.03 LICENSE FOR CONTRACTORS.

All contractors required to be licensed shall have licenses on and after January 1, 1989.

Authority: T.C.A. §§ 62-37-104 and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.04 ADVERTISING.

- (1) A licensed home improvement contractor may not solicit home improvement business by way of advertisement in a newspaper, magazine, circular, or printed document, or by way of television or radio announcement, unless the name and license number of the contractor is stated in the advertisement.

(Rule 0765-1-.04, continued)

- (2) A licensee may not directly or indirectly publish any advertisement relating to home improvements, including finance or credit terms, that contains an assertion, representation, or statement of fact that is false, deceptive or misleading.
- (3) General statements, such as "Factory to You," "Direct to You," "Buy from the Manufacturer," "Save the Middleman's Profit," or phrases of similar meaning may not be used unless the advertiser is actually the maker or producer of the merchandise advertised or offered for sale.

Authority: T.C.A. §§ 62-37-112(9) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.05 NOTICE OF CHANGE OF LICENSING INFORMATION.

A licensee shall notify the Commission in writing within thirty (30) days of any change of control in ownership, management, address or trade name.

Authority: T.C.A. §§ 62-37-108(h) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.06 TIME LIMITATIONS FOR FILING COMPLAINTS.

The Commission may summarily dismiss any complaint brought against a licensee after one (1) year from the date of the home improvement contract for the work from which the complaint arises, unless the Commission finds that the delay was justified and does not result in an undue burden for the licensee.

Authority: T.C.A. §§ 62-37-115(4) and 62-37-115(5). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.07 APPLICATION FOR LICENSURE AS HOME IMPROVEMENT CONTRACTOR.

An application for licensure as a home improvement contractor, whether it is in the name of an individual, partnership, proprietorship, or corporation, may not be accepted, if the name under which the licensee will be trading is the name being used by an existing licensee, or is so similar to the name being used by an existing licensee that it will cause confusion on the part of the public at large, unless the applicant has obtained exclusive use of this name under the federal trademark laws.

Authority: T.C.A. §§ 62-37-108(b)(2) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.08 REPEALED.

Authority: T.C.A. §§ 62-37-108(c), 62-37-108(d) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990. Repeal filed December 12, 1994; effective April 30, 1995.

0765-1-.09 TEMPORARY LICENSES.

- (1) Pursuant to T.C.A. § 62-37-108(f), the Executive Director may grant an application for a home improvement license a temporary license pending a final decision of the Commission on the Application for a permanent license if:
 - (a) Applicant has properly filed for a permanent license and has paid the requisite license fee;
 - (b) Applicant has filed a bond or evidence of financial responsibility in accordance with T.C.A. § 62-37-108(j).

(Rule 0765-1-.09, continued)

- (c) Applicant submits a written request for a temporary license to the Executive Director; and
 - (d) Executive Director determines that granting the applicant a temporary license is in the public interest and that granting the applicant a temporary license does not pose a substantial risk of harm to owners for whom the applicant would do home improvement work.
- (2) As soon as reasonably possible after receiving a written request for a temporary license, but not more than forty-five (45) days after receiving the request, the Executive Director shall inform the applicant in writing whether the Executive Director has denied or granted the applicant a temporary license. If the Executive Director grants an applicant a temporary license, the writing to the applicant shall state that the temporary license terminates automatically when the Commission decides to issue or deny the applicant a permanent license and that the Executive Director can terminate the temporary license at any time before final action on the application for a permanent license. Notwithstanding the above, a temporary license shall automatically expire after sixty (60) days from the effective date, and may not be renewed. If an additional application for a temporary license is filed within thirty (30) days after expiration of a previously issued temporary license, then the fee shall be twenty-five dollars (\$25.00).
 - (3) When the Executive Director issues a temporary license to an applicant, the Executive Director shall issue the applicant a license which is specially marked as temporary. This temporary license may be in the form of a letter from the Executive Director. The Executive Director shall state in this letter the effective date of the temporary license.
 - (4) A temporary license shall automatically expire if the Commission issues a Final Order denying the applicant's request for a permanent license.
 - (5) The Executive Director or the Commission may terminate a temporary license at any time for any reason which is not arbitrary or capricious. When the Executive Director or the Commission terminates a temporary license, it shall take effect upon receipt by the applicant of the notice of termination, or 10 days after the mailing of the notice of termination, or whichever comes first.

Authority: T.C.A. §§ 62-37-108(c), 62-37-108(d) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990. Amendment filed December 12, 1994; effective April 30, 1995.

0765-1-.10 LICENSE RENEWALS.

- (1) An application for a license previously issued which is received within one (1) year from the date of issue shall be presumed to be an application for a renewal of that license; no renewal application will be accepted more than ninety (90) days after the expiration of the license.
- (2) An application for a license previously issued which is received more than ninety (90) days from the date of the previously issued license's expiration shall be presumed to be an application for a new license.
- (3) **Effective Date of Renewals.** A license renewed pursuant to this regulation may not be retroactive to the date that the previously issued license expired, but shall take effect on the date that the applicant fulfills the Commission's requirements for renewal. The license shall expire 1 year from the date on which the previously issued license expired.

Authority: T.C.A. §§ 62-37-108(g), 62-37-115(4) and 62-37-109(d). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.11 CREDIT REPORTS.

- (1) The Commission in its discretion may require an applicant for an original contractor's license to submit to the Commission a credit report from an approved credit reporting agency and a statement of all outstanding judgements against the applicant.
- (2) The Commission shall consider this credit report and statement in determining whether the applicant has demonstrated financial solvency.

Authority: T.C.A. §§ 62-37-108(a) and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.12 REPEALED.

Authority: T.C.A. §§ 62-37-108(c), 62-37-108(d) and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990. Repeal filed December 12, 1994; effective April 30, 1995.

0765-1-.13 REPEALED.

Authority: T.C.A. §§ 62-37-115(4) and 62-37-121(a). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990. Repeal filed December 12, 1994; effective April 30, 1995.

0765-1-.14 FINANCIAL STATEMENT.

- (1) An application for an original license shall include such financial information on a form prescribed by the commission in order to determine the applicant's financial stability.
- (2) The Commission may require an applicant to submit a reviewed financial statement attested to by either a certified public accountant or licensed public accountant; or an applicant acting as a sole proprietor to submit a compiled financial statement attested to by either a certified public accountant or licensed public accountant.

Authority: T.C.A. §§ 62-37-108(a) and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.15 DISCLOSURE OF LIABILITY INSURANCE.

An applicant shall state in the application whether or not he carries general liability insurance.

Authority: T.C.A. §§ 62-37-108(b)(5) and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.16 FILING OF SECURITY PRIOR TO ISSUANCE OF LICENSE.

- (1) The requirements of T.C.A. § 62-37-108(j) must be effective and evidence thereof filed with the Commission prior to issuance of the contractor's license.
- (2) Upon cancellation of an instrument described in T.C.A. § 62-37-108(j), the licensee must immediately notify the Commission.

Authority: T.C.A. §§ 62-37-108(j) and 62-37-115(4). *Administrative History:* Original rule filed November 30, 1989; effective January 14, 1990.

0765-1-.17 COMMISSION MEETINGS - SITE AND FREQUENCY.

The Commission shall meet at least four (4) times a year with at least one meeting to be held in the cities of Knoxville, Nashville, Memphis and Chattanooga, Tennessee.

Authority: T.C.A. §§ 62-37-116(c) and 62-37-115(4). **Administrative History:** Original rule filed November 30, 1989; effective January 14, 1990.