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Number: 02-01-17Notice ID(s): 2675-2676File Date: 2/1/17

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Board for Licensing Contractors
Division:	Regulatory Boards
Contact Person:	Laura E. Martin, Assistant General Counsel
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Don Coleman
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN 37243
<b>Phone:</b>	615-741-6500
<b>Email:</b>	Don.Coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Davy Crockett Tower		
Address 2:	500 James Robertson Parkway		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	March 28, 2017		
Hearing Time:	10:00 am	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

500 James Robertson Parkway, Nashville, TN 37243, Room 1A

**Revision Type (check all that apply):** Amendment New Repeal

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

<b>Chapter Number</b>	<b>Chapter Title</b>
0680-01	Licensing
<b>Rule Number</b>	<b>Rule Title</b>
0680-01-.02	Consideration of Applicant
0680-01-.13	Monetary Limitations
0680-01-.16	Appendix A of rule 0680-01-.12 (Classification System)
0680-01-.24	Bidding Procedure
0680-01-.28	Emergency Actions

<b>Chapter Number</b>	<b>Chapter Title</b>
0680-07	General regulations for home Improvement contractors
<b>Rule Number</b>	<b>Rule Title</b>
0680-07-.08	Temporary licensing
0680-07-.15	Civil Penalties
0680-07-.16	Contracting in correct Name, Change of Name
0680-07-.17	Misconduct

Chapter 0680-01  
Licensing  
Amendments

0680-01-.01 Application for License	0680-01-.16 Appendix A of Rule 0680-01-.12 (Classification System)
0680-01-.02 Consideration of Applications	0680-01-.17 Repealed
0680-01-.03 Special Meetings	0680-01-.18 Unlawful Bidding
0680-01-.04 Repealed	0680-01-.19 Civil Penalties
0680-01-.05 Repealed	0680-01-.20 Fees
0680-01-.06 Reinstatement of Invalid License	0680-01-.21 Citation Penalties
0680-01-.07 Repealed	0680-01-.22 Exemption
0680-01-.08 Change of Address or Officers	0680-01-.23 Requalification of Agent
0680-01-.09 Change in Mode of Operation	0680-01-.24 Bidding Procedures
0680-01-.10 Renewal of Licenses	0680-01-.25 Contracting in Correct Name; Change of Name
0680-01-.11 Joint Ventures	0680-01-.26 License Required for Property Owners
0680-01-.12 General and Specialty Classifications	0680-01-.27 Misconduct
0680-01-.13 Monetary Limitations	0680-01-.28 Emergency Actions
0680-01-.14 Request for Change of Classifications or Limitation	0680-01-.29 Limited Residential License
0680-01-.15 Review and Adjustment of Classifications and Monetary Limitation	

Rule 0680-01-.02 Consideration of Applications is amended by deleting paragraph (3) and substituting the following language so that as amended the new paragraph shall read as follows:

- (3) In order to obtain a certification authorizing the applicant to operate as a contractor, the following persons, otherwise known as the qualifying agent, must meet all Board requirements for a qualifying agent, and may be required to appear before the Board for and interview:
- (a) for a sole proprietorship- either the individual owner or full time employee with a written power of attorney to bind the sole proprietor, who has sufficient knowledge of the construction business in which the persons are licensed to perform.
  - (b) for any partnership- either a general partner or full time employee with written power of attorney to bind the partnership who has sufficient knowledge of the construction business in which the persons are licensed to perform.
  - (c) for any corporation- either a major stockholder (owning at least 20% of stock) or full time employee with written power of attorney to bind the corporation who has sufficient knowledge of the construction business in which the persons are licensed to perform.
  - (d) for any limited liability company- either a manager, member or full-time employee with a written power of attorney to bind the organization who has sufficient knowledge of the construction business in which the persons are licensed to perform.
  - (e) .the Board must be notified within ten (10) days of the death, resignation, termination, or incapacity of a qualifying agent. If the qualifying agent for the sole proprietorship, partnership, corporation, or limited liability company leaves the firm for any reason, a new qualifying agent must take the examination and be appointed within three (3) months. If not, the license becomes

inactive until a new qualifying agent is appointed.

- (f) the license of an individual, sole proprietorship or partnership shall automatically become inactive three (3) months after the death of the individual, individual owner, or the sole proprietorship, or partner unless another person or entity has applied to transfer/change ownership of the license.
- (g) if anyone other than an individual with an ownership interest acts as a qualifying agent, then an owner or officer with an ownership interest or power of attorney must also appear along with the qualifying agent for interview before the Board.

Authority: T.C.A. §§ 62-6-108, 62-6-111, and 62-6-115.

Rule 0680-01-.13 Monetary Limitations is amended by deleting paragraph (3) and (4) and by adding paragraphs (3)-(8) so that as amended the new rule shall read as follows:

- (3) A guaranty agreement, line of credit, bond, or other indemnity may be required in the following situations, in addition to the financial statement:
  - (a) Applicants that have a primarily "cash" financial statement will be required to submit a personal financial statement accompanied by a "guaranty agreement."
  - (b) If an applicant company is completely or partly owned by a parent company then the Board may require the parent company to provide a financial statement along with a "guaranty agreement" in which the parent company agrees to guarantee the debts and obligations of the subsidiary company for all debts and obligations arising out of the contracting activities of the applicant. If the parent company cannot provide a "Guaranty Agreement" they may request the board to consider a bond in the Board's format. This bond would not be accepted in lieu of providing a financial statement.
- (4) A guaranty agreement may be utilized when an applicant wishes to supplement the working capital and/or net worth portion of their financial statement. The guarantor must submit a personal financial statement with a personal guaranty agreement.
- (5) The Board reserves the right to accept or decline guaranty agreements as a supplement to applicant financial statements depending on the individual circumstances of each application.
- (6) If a guarantor's spouse is named on the financial statement submitted with the guaranty agreement then the named spouse must also sign the guaranty agreement.
- (7) All guaranty agreements shall expire on the same date as the license that the agreement was provided to support.
- (8) 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.
  - (a) A tolerance of ten percent (10%) of the monetary limit is allowed, except for the BC-A/r licensees.

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

Rule 0680-01-.16 Appendix A of Rule 0680-01-.12 (Classification System) is amended by amending building classification MC (CMC)-Mechanical Contracting Section H. by adding the "/Electric" after the word "Pneumatic." SS-7037 (July 2014)

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/Electric)
- I. Boiler Construction & Repairs
- J. Fuel Gas Piping and Systems

Rule 0680-01-.16 Appendix A of Rule 0680-01-.12 (Classification System) is amended by amending building classification E (CE)-Electrical Contracting by deleting Section F. Telephone Lines and Ducts and replacing with Section F. Data Communication Systems (e.g. fiber optics & cabling) and by deleting Section I. Electrical Temperature Controls and replacing Section I. Building Automation Controls.

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. Data Communication Systems (e.g. fiber optics & cabling)
- G. Cable T.V.
- H. Substations
- I. Building Automation 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

Rule 0680-01-.24 Bidding Procedures is amended by deleting paragraph (1) and by substituting the following language, so that, as amended the new paragraph shall read as follows:

- (1) Pursuant to T.C.A. § 62-6-102, a subcontractor is required to be licensed in order to perform electrical, plumbing, heating ventilation, air conditioning, and roofing work when the amount is twenty-five 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 no consideration of the subcontractor's bid, if appropriately licensed, but said subcontractor may be subject to discipline by the Board.

Authority: T.C.A. §§ 62-6-102, 62-6-103, 62-6-108, 62-6-111, 62-6-119.

Rule 0680-01-.28 Emergency Actions is deleted in its entirety and the new rule shall read as follows:

0680-01-.28 Temporary Licensing

- (1) Hardships or Emergency Actions
  - (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) Applicants who wish to apply for an hardship license shall submit the following:
    - 1. Contractor's License Application
    - 2. Written request from the project owner describing the hardship and letter must include: details of the hardship; reason the hardship 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
  - (e) The Board must ratify the issuance of a hardship license at their next regularly scheduled board meeting. The Board may deny the license or terminate the

0680-01-.02, .13, .16, .24, .28; 0680-07-.08, .15, .16, .17  
temporary license by providing written notice of the rejection within fifteen (15) days of  
the board meeting.

Authority: T.C.A. §§ 4-3-1304, 62-6-108, 62-6-109, 62-6-111, 62-6-116 and 62-6-117.

Chapter 0680-07  
General Regulations for Home Improvement Contractors  
Amendments

The table of contents shall be amended so that as written it shall read;

0680-07-.01	Fees	0680-07-.09	License Renewals
0680-07-.02	Definitions	0680-07-.10	Credit Reports
0680-07-.03	License for Home Improvement Contractors	0680-01-.11	Financial Statement
0680-07-.04	Advertising	0680-01-.12	Filing of Security Prior to Issuance of License
0680-07-.05	Notice of Change of Licensing Information		
0680-07-.06	Time Limitations for Filing Complaints	0680-01-.13	Bonds
0680-07-.07	Application for Licensure as Home Improvement Contractor	0680-07-.14	County Adoption of Home Improvement Law
0680-07-.08	Temporary Licenses	0680-07-.15	Civil Penalties
		0680-07-.16	Contracting in Correct Name; Change of Name
		0680-07-.17	Misconduct

Rule 0680-07-.08 Temporary Licenses is deleted in its entirety and the new rule shall read as follows:

Rule 0680-07-.08 Temporary Licenses

1. Temporary Licenses

(a) Pursuant to T.C.A. § 62-6-506(d), the Executive Director may grant an application for a home improvement temporary license pending a final decision of the Board on the Application for a permanent license if:

1. applicant has properly filed for a permanent license and has paid the requisite license fee;
2. applicant has filed a bond or evidence of financial responsibility in accordance with T.C.A. § 62-6-506(h);
3. applicant has submitted a written request for a temporary license to the Executive Director; and
4. the 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.

(b) As soon as 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 Board 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).

- (c) 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.
- d) A temporary license shall automatically expire if the Board issues a final decision denying the applicant's request for a permanent license.
- (e) The Executive Director or the Board may terminate a temporary license at any time for any reason which is not arbitrary or capricious. When the Executive Director or the Board terminates a temporary license, it shall take effect upon receipt by the applicant of the notice of termination, or ten (10) days after the mailing of the notice of termination, or whichever comes first.

Authority: T.C.A. §§ 4-3-1304 62-6-506(g), 62-6-506(f), 62-6-507, and 62-6-513.

Chapter 0680-07  
General Regulations for Home Improvement Contractors  
New Rules

Rule 0680-07-.15 Civil penalties shall be added as a new rule and shall read as follows:

0680-07-.15 Civil Penalties

- (1) The Board may in a lawful proceeding respecting licensing (as defined in the Uniform Administrative Procedures Act), and T.C.A. § 56-1-308, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties for violations of statutes, rules, or orders enforceable by the Board in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-6-502	\$50.00-\$1,000.00
T.C.A. § 62-6-509(a)(1-6)	\$50.00- \$500.00
T.C.A. § 62-6-510(1)(2)(5)(6)(7)(8)(9)(10)(11)(12)(13)(15)(16)	\$50.00- \$500.00
T.C.A. § 62-6-510(3), (4), or (141)	\$50.00-\$25,000.00

- (2) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
  - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;



- (b) The circumstances leading to the violation;
  - (c) The severity of the violation and the risk to consumers;
  - (d) The economic benefits gained by the violator as a result of non-compliance;
  - (e) The interest of the public;
  - (f) The willfulness of the violation; and,
  - (g) The extent to which the licensee has sought to compensate any victim(s) of the violation.
- (3) For the purposes of assessment of civil penalties pursuant to this rule each day of continued violation shall constitute a separate violation.

Authority: T.C.A. §§ 62-6-509, 62-6-513, 62-6-518.

0680-07-.16 Contracting in Correct Name; Change of Name is added as a new rule and shall read as follows:

0680-07-.16 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, as defined by T.C.A. § 62-6-102(4)(A)(i) 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.

Authority: T.C.A. §§ 62-6-509, 62-6-510, 62-6-513.

0680-07-.17 Misconduct shall be added as a new rule and shall be read as follows:

0680-07-.17 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 an 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 a 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 or consenting to or allowing for a contractor's license number to be utilized by an unlicensed contractor or improperly licensed contractor in the furtherance of unlicensed contracting;
- (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 the conduct that is central to the judgement is related to the contracting industry;
- (7) Failure to respond to customer inquiries regarding completion of work and/or dissatisfaction with quality of work;
- (8) Submitting documentation to the Board that is false, forged, altered or otherwise misleading or knowingly making any false statement related to a license application or to an investigation conducted by the Board or Board employees.

Authority: TC.A §§ 62-6-509 62-6-510. 62-6-513.

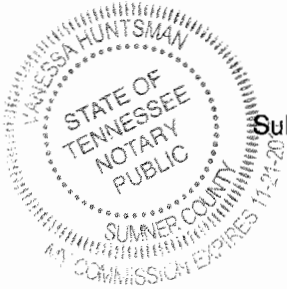
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/31/17

Signature: Laura E. Martin

Name of Officer: Laura E. Martin

Title of Officer: assistant General Counsel



Subscribed and sworn to before me on: 01/31/2017

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/24/2017

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Filed with the Department of State on: 2/1/17

Tre Hargett

Tre Hargett  
Secretary of State

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