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Sequence Number: 02-02-12  
 Notice ID(s): 1734-1735  
 File Date: 02/06/2012

# 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.

<b>Agency/Board/Commission:</b>	Tennessee Board for Licensing Contractors
<b>Division:</b>	
<b>Contact Person:</b>	Jenny Taylor
<b>Address:</b>	500 James Robertson Parkway, 12 Fl., Nashville, Tennessee 37243
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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, ADA Coordinator
<b>Address:</b>	500 James Robertson Parkway, 12 <sup>th</sup> Floor, Nashville, Tennessee 37243
<b>Phone:</b>	615-741-0481
<b>Email:</b>	Don.Coleman@tn.gov

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

Address 1:	710 James Robertson Parkway		
Address 2:	3 <sup>rd</sup> Floor Conference Room		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date:	03/28/12		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**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.)

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-.20	Fees

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

<b>Chapter Number</b>	<b>Chapter Title</b>
0680-04	Limited Licensed Plumbers
<b>Rule Number</b>	<b>Rule Title</b>
0680-04-.05	License Renewal

Chapter 0680-01

Licensing

Amendment

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 50% of value.
- (3) A guaranty agreement, in addition to the financial statement, will be required in the following situations:
  - (a) Applicants that have a primarily "cash" only financial statement will be required to submit a personal financial statement accompanied by a "guaranty agreement." This includes members of a limited liability company if the company statement is primarily "cash" only.
  - (b) If an applicant company is completely or partly owned by a parent company then the Board requires 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 cannot provide a "Guaranty Agreement" they may request the board to consider a \$500,000 or \$1,000,000 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 applicant may submit a personal financial statement accompanied by a personal guaranty.
- (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) Regarding sole proprietorships, partnerships, and members of a limited liability company, an applicant's spouse must sign the guaranty agreement unless exigent circumstances exist.
- 7) 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.
- 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 limit, the monetary limits shall not be combined to bid a project.

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

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, two, three, or four family unit residences not exceeding three stories in height and accessory use structures in connection therewith.

##### r. Limited Residential

A limited residential contractor is authorized to bid on and contract for the construction 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.

##### b. Small Commercial

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. 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

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 (70) volts require an electrical exam.
- K. Roadway Lighting, Attenuators and Signalization - requires electrical examination.

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 Tennessee Code Annotated, Section 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 Tennessee Code Annotated, Section 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.

Rule 0680-01-.20 Fees is amended by adding new subsections (8), (9), and (10). The new subsections shall read as follows:

Rule 0680-01-.20 Fees

- (8) The fee to amend or change the name on a license shall be one hundred dollars (\$100.00).
- (9) The fee to add an additional classification to a license shall be one hundred dollars (\$100.00).
- (10) The fee to apply for an increased monetary limitation shall be one hundred dollars (\$100.00).

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

Chapter 0680-04  
Limited Licensed Plumbers  
Amendment

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

Rule 0680-04-.05 License Renewal

- (3) License renewals that are received fewer than thirty (30) days before the license expiration will be subject to late renewal penalties of 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	Temporary Licensing
0680-01-.29	Limited Residential License

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

The license exemption stated in 62-6-103(2)(A) pertains to any person, firm or church 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 construction 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 agreements with multiple customers.
- (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 if 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, 62-6-118

#### 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 consult with 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(g), 62-6-111(b)(1)

#### Rule 0680-01-.29 Limited Residential License

- (1) The Limited Residential License allows for the construction of single family dwellings in which the total cost does not exceed seventy thousand dollars (\$70,000.00).
- (2) The 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 must have proof of prior construction 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 may 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, 62-6-112(e)

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: 2/6/2012

Signature: [Handwritten Signature]

Name of Officer: J. Wayne Fugh

Title of Officer: Deputy General Counsel for Regulatory Board Division,  
Department of Commerce and Insurance



Subscribed and sworn to before me on: February 6, 2012

Notary Public Signature: [Handwritten Signature]

My commission expires on: 5/6/2012

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Filed with the Department of State on: 02/06/2012

[Handwritten Signature]

Tre Hargett  
Secretary of State

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