

**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615-741-2650  
 Fax: 615-741-5133  
 Email: [register.information@tn.gov](mailto:register.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 11-09-13  
 Rule ID(s): 5605  
 File Date: 11/22/13  
 Effective Date: 2/20/14

# 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*

<b>Agency/Board/Commission:</b>	Tennessee Department of Commerce and Insurance
<b>Division:</b>	Tennessee Board for Licensing Contractors
<b>Contact Person:</b>	Jenny Taylor, Assistant General Counsel
<b>Address:</b>	500 James Robertson Parkway, Davy Crockett Tower
<b>Zip:</b>	37243
<b>Phone:</b>	615-532-6308
<b>Email:</b>	Jenny.Taylor@tn.gov

**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-.16	Appendix A of Rule 0680-01-.12 Classifications System
0680-01-.27	Misconduct
0680-01-.29	Limited Residential License

Chapter 0680-01  
Licensing

Amendments/New Rules

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0680-01-.02 Consideration of Applications	0680-01-.17 Repealed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0680-01-.04 Repealed	0680-01-.19 Civil Penalties
0680-01-.05 Repealed	0680-01-.20 Fees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0680-01-.07 Repealed	0680-01-.22 Exemption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-.16 Appendix A of Rule 0680-01-.12 (Classifications System) is amended by deleting section A(1) Limited Residential (r) and substituting the following language, so that, as amended the new section shall read as follows:

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

1. Limited Residential (r)-A limited residential contractor is authorized to bid on and contract for the construction, remodel, repair, or improvement of a single family dwelling the total cost of which does not exceed one hundred twenty five thousand dollars (\$125,000.00).

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

Rule 0680-01-.27 Misconduct is amended by deleting paragraph (3) and by substituting the following language, so that, as amended the new paragraph shall read as follows:

- (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.

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

Rule 0680-01-.29 Limited Residential License is added to Chapter 0680-01 and shall read as follows:

- (1) The Limited Residential License allows for the construction, remodel, repair, or improvement of single family dwellings in which the total cost, including the cost of the property if owned by the contractor, does not exceed one hundred twenty five thousand dollars (\$125,000.00).
- (2) The ten percent (10%) tolerance for monetary limitations as stated in Tenn. Comp. R. & Regs. § 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 limited residential license three day course as approved by the Board. The course may be taken at any location approved by the Board. These courses are found on the Board website.

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

\* 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)
Ronnie Tickle	X				
Ernest Owens	X				
William (Bill) Mason	X				
Keith Whittington	X				
Reese Smith	X				
Cindi Debusk	X				
Marvin Sandrell	X				
Mark Brodd	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 July 30, 2013, 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: 05/29/13

Rulemaking Hearing(s) Conducted on: (add more dates). 07/30/13

Date: 10-23-13

Signature: Jenny Taylor

Name of Officer: Jenny Taylor

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 10-23-13

Notary Public Signature: Patricia A. Turner

My commission expires on: 5-15-15

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.

Robert E. Cooper, Jr.  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
11-4-13  
 Date

Department of State Use Only

Filed with the Department of State on: 11/22/13

Effective on: 2/20/14

Tre Hargett  
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-.16

Mitzi Spann, of the Home Builders Association of Tennessee, commented that some code directors have concern about interpretation of the code and how to enforce this rule. There is an understanding that the total project cost also includes the cost of the lot if the contractor is building a new home but that is not clear in the rule. Ms. Spann suggests that the phrase "including any lot cost" be added so that it is clear that lot cost is included in total project value. Ms. Spann suggests adding that language to this rule and to rule 0680-01-.29. The Board responded that they agreed that total project cost should include land cost in the case of new construction. The Board agreed to add the requested language regarding "lot cost" to the more specific rule regarding this type of license found at 0680-01-.29.

### Rule 0680-01-.27

Roger Tudor, of Associated General Contractors of East Tennessee, sent a written comment asking the Board to consider changing the title of a general contractor to a prime contractor and the title of subcontractors to remote contractors. Mr. Tudor also inquired as to whether architects would be disciplined for allowing an unlicensed person to bid on a project. Mr. Tudor stated that in their area of the state it was common for a licensed general contractor to pull the permit while an unlicensed contractor does the work. Mr. Tudor pointed out that the State of Georgia has a law stating that a general contractor who pulls a permit for an unlicensed person to perform the work will have financial responsibility for the project. The Board responded that it was not necessary to change the titles of general contractors and subcontractors. The Board stated that an architect would need to be disciplined by their own licensing board. Bob Pitts, a policy advisor for Associated Builders and Contractors of Middle Tennessee, suggested that the word "acting" be added to the rule after the phrase "unlicensed contractor is." The Board voted to accept the proposed revision.

### Rule 0680-01-.29

Mitzi Spann, of the Home Builders Association of Tennessee, suggested adding the phrase "including the lot cost if owned by the contractor." They are in support of the codes directors understanding the law and applying it correctly and feel that the added language would assist with that. The Board agreed that the rule should be clarified and voted to add the phrase "including the cost of the property if owned by the contractor" after "total cost."

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 will be 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:

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. It is also imperative that a licensed contractor be aware of the financial, work classification limits, and testing requirements set by the Board for particular license classifications.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The rules will not take effect until after a public rulemaking hearing and 90 days have passed since the time of filing with the Secretary of State so any licensed contractors will have notice and adequate time for compliance regarding the amendments and new rules related to license classifications and grounds for possible disciplinary action.

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.

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:

There is no foreseeable substantial effect that will stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement:

1. Types of small businesses directly affected:

The grounds for misconduct could potentially affect all small businesses that are licensed. The new rule regarding limited residential contractors will affect all licensees, including small business, that are licensed as limited residential contractors.

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 grounds for disciplinary action and license classifications. Many licensees are small businesses and any exemption given to small businesses would undermine the rules.

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 a financial impact on local governments.

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;

The new rule, 0680-01-.29, reflects what type of work a limited residential contractor is permitted to perform, changes the total project amount for which the limited residential contractor may act as the general contractor by increasing that amount, and contains other specific provisions related to the license.

The amendment to Rule 0680-01-.16 will change the license classification section of the licensing rules to reflect the new rule regarding the type of work a limited residential contractor is permitted to perform and the total project amount for which the limited residential contractor may act as the general contractor.

The amendment to Rule 0680-01-.27 will clarify grounds for possible disciplinary action by the Board related to a licensed contractor either pulling a permit for an unlicensed contractor or consenting to a license number being utilized by an unlicensed contractor in the furtherance of unlicensed contracting.

- (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. § 62-6-112(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 "notwithstanding any provision of this part to the contrary, 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."

T.C.A. § 62-6-118(d) provides that "the board has the power to revoke or suspend any license or renewal granted by it for any of the reasons stated in this section, for a failure to observe the terms and conditions of any license or renewal granted under this part or any bylaws, rules or regulations adopted or promulgated by it as provided in § 62-6-108 or for a violation of the terms of any license."

T.C.A. § 62-6-121 provides that "the board shall inquire into the identity of any person, firm or corporation operating under the general classifications of this part and shall prosecute any person, firm or corporation violating 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, Section 1 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;

Danny L. Davis Contractors, Inc. v. Hobbs, 157 S.W.3d 414, Tenn.Ct.App., 2004



- (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), 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  
[Jenny.Taylor@tn.gov](mailto:Jenny.Taylor@tn.gov)  
[Carolyn.Lazenby@tn.gov](mailto:Carolyn.Lazenby@tn.gov)

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

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Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

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<b>Agency/Board/Commission:</b>	Tennessee Department of Commerce and Insurance
<b>Division:</b>	Tennessee Board for Licensing Contractors
<b>Contact Person:</b>	Jenny Taylor, Assistant General Counsel
<b>Address:</b>	500 James Robertson Parkway, Davy Crockett Tower
<b>Zip:</b>	37243
<b>Phone:</b>	615-532-6308
<b>Email:</b>	Jenny.Taylor@tn.gov

**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-.16	Appendix A of Rule 0680-01-.12 Classifications System
0680-01-.27	Misconduct
0680-01-.29	Limited Residential License

Chapter 0680-01  
Licensing

Amendments/New Rules

0680-01-.01 Application for License	0680-01-.16 Appendix A of Rule 0680-01-.12 (Classification System)
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0680-01-.09 Change in Mode of Operation	0680-01-.24 Bidding Procedures
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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-.16 Appendix A of Rule 0680-01-.12 (Classifications System) is amended by deleting section A(1) Limited Residential (r) and substituting the following language, so that, as amended the new section shall read as follows:

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

1. Limited Residential (r)-A limited residential contractor is authorized to bid on and contract for the construction, remodel, repair, or improvement of a single family dwellings the total cost of which does not exceed seventy thousand dollars (\$70,000.00.) one hundred twenty five thousand dollars (\$125,000.00).

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

Rule 0680-01-.27 Misconduct is amended by deleting paragraph (3) and by substituting the following language, so that, as amended the new paragraph shall read as follows:

- (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.

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

Rule 0680-01-.29 Limited Residential License is added to Chapter 0680-01 and shall read as follows:

- (1) The Limited Residential License allows for the construction, remodel, repair, or improvement of single family dwellings in which the total cost, including the cost of the property if owned by the contractor, does not exceed one hundred twenty five thousand dollars (\$125,000.00).
- (2) The ten percent (10%) tolerance for monetary limitations as stated in Tenn. Comp. R. & Regs. § 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 limited residential license three day course as approved by the Board. The course may be taken at any location approved by the Board. These courses are found on the Board website.

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

\* 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)
Ronnie Tickle	X				
Ernest Owens	X				
William (Bill) Mason	X				
Keith Whittington	X				
Reese Smith	X				
Cindi Debusk	X				
Marvin Sandrell	X				
Mark Brodd	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 July 30, 2013, 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: 05/29/13

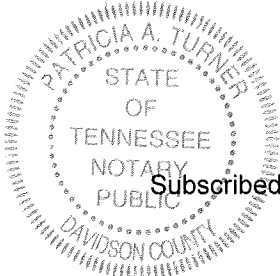
Rulemaking Hearing(s) Conducted on: (add more dates). 07/30/13

Date: 10-23-13

Signature: Jenny Taylor

Name of Officer: Jenny Taylor

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 10-23-13

Notary Public Signature: Patricia A. Turner

My commission expires on: 5-15-15

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.

Robert E. Cooper, Jr.  
Attorney General and Reporter

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-.16

Mitzi Spann, of the Home Builders Association of Tennessee, commented that some code directors have concern about interpretation of the code and how to enforce this rule. There is an understanding that the total project cost also includes the cost of the lot if the contractor is building a new home but that is not clear in the rule. Ms. Spann suggests that the phrase "including any lot cost" be added so that it is clear that lot cost is included in total project value. Ms. Spann suggests adding that language to this rule and to rule 0680-01-.29. The Board responded that they agreed that total project cost should include land cost in the case of new construction. The Board agreed to add the requested language regarding "lot cost" to the more specific rule regarding this type of license found at 0680-01-.29.

### Rule 0680-01-.27

Roger Tudor, of Associated General Contractors of East Tennessee, sent a written comment asking the Board to consider changing the title of a general contractor to a prime contractor and the title of subcontractors to remote contractors. Mr. Tudor also inquired as to whether architects would be disciplined for allowing an unlicensed person to bid on a project. Mr. Tudor stated that in their area of the state it was common for a licensed general contractor to pull the permit while an unlicensed contractor does the work. Mr. Tudor pointed out that the State of Georgia has a law stating that a general contractor who pulls a permit for an unlicensed person to perform the work will have financial responsibility for the project. The Board responded that it was not necessary to change the titles of general contractors and subcontractors. The Board stated that an architect would need to be disciplined by their own licensing board. Bob Pitts, a policy advisor for Associated Builders and Contractors of Middle Tennessee, suggested that the word "acting" be added to the rule after the phrase "unlicensed contractor is." The Board voted to accept the proposed revision.

### Rule 0680-01-.29

Mitzi Spann, of the Home Builders Association of Tennessee, suggested adding the phrase "including the lot cost if owned by the contractor." They are in support of the codes directors understanding the law and applying it correctly and feel that the added language would assist with that. The Board agreed that the rule should be clarified and voted to add the phrase "including the cost of the property if owned by the contractor" after "total cost."

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 will be 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:

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. It is also imperative that a licensed contractor be aware of the financial, work classification limits, and testing requirements set by the Board for particular license classifications.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The rules will not take effect until after a public rulemaking hearing and 90 days have passed since the time of filing with the Secretary of State so any licensed contractors will have notice and adequate time for compliance regarding the amendments and new rules related to license classifications and grounds for possible disciplinary action.

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.

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:

There is no foreseeable substantial effect that will stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement:

1. Types of small businesses directly affected:

The grounds for misconduct could potentially affect all small businesses that are licensed. The new rule regarding limited residential contractors will affect all licensees, including small business, that are licensed as limited residential contractors.

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 grounds for disciplinary action and license classifications. Many licensees are small businesses and any exemption given to small businesses would undermine the rules.

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 a financial impact on local governments.



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;

The new rule, 0680-01-.29, reflects what type of work a limited residential contractor is permitted to perform, changes the total project amount for which the limited residential contractor may act as the general contractor by increasing that amount, and contains other specific provisions related to the license.

The amendment to Rule 0680-01-.16 will change the license classification section of the licensing rules to reflect the new rule regarding the type of work a limited residential contractor is permitted to perform and the total project amount for which the limited residential contractor may act as the general contractor.

The amendment to Rule 0680-01-.27 will clarify grounds for possible disciplinary action by the Board related to a licensed contractor either pulling a permit for an unlicensed contractor or consenting to a license number being utilized by an unlicensed contractor in the furtherance of unlicensed contracting.

- (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. § 62-6-112(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 “notwithstanding any provision of this part to the contrary, 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.”

T.C.A. § 62-6-118(d) provides that “the board has the power to revoke or suspend any license or renewal granted by it for any of the reasons stated in this section, for a failure to observe the terms and conditions of any license or renewal granted under this part or any bylaws, rules or regulations adopted or promulgated by it as provided in § 62-6-108 or for a violation of the terms of any license.”

T.C.A. § 62-6-121 provides that “the board shall inquire into the identity of any person, firm or corporation operating under the general classifications of this part and shall prosecute any person, firm or corporation violating 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, Section 1 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;

Danny L. Davis Contractors, Inc. v. Hobbs, 157 S.W.3d 414, Tenn.Ct.App., 2004

- (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), 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  
[Jenny.Taylor@tn.gov](mailto:Jenny.Taylor@tn.gov)  
[Carolyn.Lazenby@tn.gov](mailto:Carolyn.Lazenby@tn.gov)

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