

**RULES
OF
TENNESSEE BOARD FOR LICENSING CONTRACTORS**

**CHAPTER 0680-07
GENERAL REGULATIONS FOR HOME IMPROVEMENT CONTRACTORS**

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0680-07-.01 FEES.

- (1) Initial application and license fee (biennial)\$250.00 per business location
- (2) Renewal fee (biennial).....\$200.00 per business location
- (3) Late renewal fee \$10.00 each month; not to exceed three (3) months
- (4) Duplicate license fee for one lost, destroyed or mutilated.....\$10.00

Authority: T.C.A. §§ 62-6-504 and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.02 DEFINITIONS.

The definitions contained in T.C.A. § 62-6-501, are incorporated into these regulations by references as 0680-07-.02.

Authority: T.C.A. § 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.03 LICENSE FOR HOME IMPROVEMENT CONTRACTORS.

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

Authority: T.C.A. §§ 62-6-502 and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.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 0680-07-.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. §§ 62-6-510(9) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.05 NOTICE OF CHANGE OF LICENSING INFORMATION.

A licensee shall notify the Board in writing within thirty (30) days of any change of control in ownership, management, address or trade name. Upon notification of a substantial change in control of ownership, the Board reserves the right to require a new application for licensure.

Authority: T.C.A. §§ 62-6-506(h) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.06 TIME LIMITATIONS FOR FILING COMPLAINTS.

The Board 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 Board finds that the delay was justified and does not result in an undue burden for the licensee.

Authority: T.C.A. § 62-6-513(3) and (4). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.07 APPLICATION FOR LICENSURE AS HOME IMPROVEMENT CONTRACTOR.

- (1) 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.
- (2) If the applicant's mailing address is a post office box, the applicant must also include a physical address for the business location.

Authority: T.C.A. §§ 62-6-506(c) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

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;

(Rule 0680-07-.08, continued)

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. §§ 4-3-1403; 62-6-506(c), (d), (g), and (f); 62-6-507; 62-6-513; and 62-6-513(3).
Administrative History: Original rule filed March 19, 2009; effective June 2, 2009. Amendments filed June 8, 2017; to have been effective September 6, 2017. However, the Government Operations Committee filed a 45-day stay of the effective date of the rules on August 17, 2017; new effective date October 21, 2017.

0680-07-.09 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

(Rule 0680-07-.09, continued)

date that the applicant fulfills the Board's requirements for renewal. The license shall expire two (2) years from the date on which the previously issued license expired.

Authority: T.C.A. §§ 62-6-506(g), 62-6-507(d), and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.10 CREDIT REPORTS.

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

Authority: T.C.A. §§ 62-6-506(a) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.11 FINANCIAL STATEMENT.

The Board may require any applicant to submit a reviewed financial statement attested to by either a certified public accountant or licensed public accountant; or on a form prescribed by the Board with a notarized affidavit, in order to determine the applicant's financial stability.

Authority: T.C.A. §§ 62-6-506(a) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.12 FILING OF SECURITY PRIOR TO ISSUANCE OF LICENSE.

- (1) The requirements of T.C.A. § 62-6-506(h) must be effective and evidence thereof filed with the Board prior to issuance of the contractor's license.
- (2) Upon cancellation of an instrument described in T.C.A. § 62-6-506(h) the licensee must notify the Board in writing within ten (10) days of such cancellation.

Authority: T.C.A. §§ 62-6-506(h) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.13 BONDS.

- (1) Bonds shall be written on a form approved by the Insurance Commissioner, available through the Board, which shows the name of the principal as it appears on the license application.
- (2) Description of Bonds.
 - (a) Surety Bond.
 1. A surety bond shall be in the amount of ten thousand dollars (\$10,000.00), issued to a home improvement contractor by an approved insurance company authorized to do business in Tennessee, for the benefit of a claimant, who has been damaged by the contractor's breach of a home improvement contract. If the bond ceases to be in effect, the home improvement contractor's license shall become invalid.
 2. The Board may refuse to accept a bond written for a home improvement contractor by a surety which has failed to meet its obligations under this subtitle.

(Rule 0680-07-.13, continued)

(b) Letter of Credit.

1. A bond in the form of an irrevocable letter of credit shall be an agreement, between a financial institution and a home improvement contractor on record at the Board wherein the FDIC insured financial institution agrees to extend an irrevocable line of credit amounting to ten thousand dollars (\$10,000.00), for the purpose of honoring claims filed with the Board.
2. The irrevocable letter of credit shall show the name of the financial institution extending the credit and the name of the applicant or home improvement contractor to whom the letter of credit was issued as it appears on the applicant's or home improvement contractor's license application.

(3) Release of Bond.

A bond may not be released until whichever occurs last:

- (a) One (1) year after the inactivation, expiration or revocation of home improvement contractor's license;
- (b) After the pending claims against the licensee filed during the period described in 3(a) have been heard and satisfied, or dismissed.

Authority: T.C.A. §§ 62-6-506(h) and 62-6-513(3). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009. Amendments filed March 22, 2018; effective June 20, 2018.

0680-07-.14 COUNTY ADOPTION OF HOME IMPROVEMENT LAW.

The legislative body of the county may, by two-thirds (2/3) majority vote, adopt the home improvement license law. Such county must notify the Board in writing of the effective date to implement the requirements to home improvement contractors.

Authority: T.C.A. § 62-6-516(b). **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

0680-07-.15 EXPEDITED PROCEDURE FOR MILITARY PERSONNEL AND SPOUSES.

(1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:

- (a) Be issued a license upon application and payment of all fees required for issuance of a regular license of the same type if, in the opinion of the Board, the requirements for certification or licensure of such other state are substantially equivalent to the requirements in Tennessee; or
- (b) Be issued a temporary license as described herein if the Board determines the applicant's license is not substantially equivalent, as set forth in subsection (a) above, but the applicant could perform additional acts, including – but not limited to education, training, or experience (“applicant's additional requirements”). The Board may issue a temporary license upon application and payment of all fees required for issuance of a regular license of the same type which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient for the applicant to complete applicant's additional requirements.
 1. After completing applicant's additional requirements and providing the Board with sufficient proof thereof as may be required, a full license shall be issued to the

(Rule 0680-07-.15, continued)

- applicant with an issuance date of the date of the original issuance of the temporary license and an expiration date as if the full license had been issued at that time providing the Board determines that there have been no intervening issues to prevent such licensure.
2. A temporary license shall be issued for a period of less than the length of a renewal cycle for a permanent license.
 3. A temporary license shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of applicant's additional requirements, as required by the Board or by an extension of time granted for good cause by the Board.
 4. Should an extension to a temporary license cause the license to be in effect longer than the renewal cycle of a permanent license then the holder of the temporary license shall file a renewal application with such documentation and fees, as are required by the Board for all other renewals of a permanent license of the same type.
- (2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the Board if such military education, training, or experience is determined by the Board to be substantially equivalent to the education, training, or experience required for the issuance of such license.
 - (3) Any licensee who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible to be renewed upon the licensee being released from active duty without payment of late fees or other penalties.
 - (a) The license of a person described in paragraph (3) shall be eligible for renewal pursuant to this subsection for one (1) year from the person's release from active duty.
 - (b) Any person renewing under paragraph (3) shall provide the Board such supporting documentation evidencing activation as may be required by the Board prior to renewal of any license pursuant to this subsection.

Authority: T.C.A. §§ 4-3-1304, 62-6-506, 62-6-507, and 62-6-513. **Administrative History:** Original rule filed November 17, 2016; effective February 15, 2017.

0680-07-.16 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

(Rule 0680-07-.16, continued)

- (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, and 62-6-518. **Administrative History:** Original rule filed June 8, 2017; to have been effective September 6, 2017. However, the Government Operations Committee filed a 45-day stay of the effective date of the rules on August 17, 2017; new effective date October 21, 2017.

0680-07-.17 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. **Administrative History:** Original rule filed June 8, 2017; to have been effective September 6, 2017. However, the Government Operations Committee filed a 45-day stay of the effective date of the rules on August 17, 2017; new effective date October 21, 2017.

0680-07-.18 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;

(Rule 0680-07-.18, continued)

- (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: T.C.A. §§ 62-6-509, 62-6-510, and 62-6-513. **Administrative History:** Original rule filed June 8, 2017; to have been effective September 6, 2017. However, the Government Operations Committee filed a 45-day stay of the effective date of the rules on August 17, 2017; new effective date October 21, 2017.