

Sunset Public Hearing Questions for
Board for Licensing Contractors
Created by Section 62-6-104, *Tennessee Code Annotated*
(Sunset Termination June 2020)

1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.

Introduction:

The Board for Licensing Contractors was originally established in 1931. It is comprised of nine (9) board members appointed by the Governor to each serve a seven (7) year term. The law has specific requirements for the make-up of the Board which is according to their trade, residency from each grand division of the state, one (1) of racial minority, and a public member.

Purpose:

The Board oversees the contracting industry and strives to assure quality and fair construction practices are in place to protect the safety and welfare of the public through regulation by means of examination (ensuring the applicant is knowledgeable); licensure (fulfills application requirements such as financially sound, experienced and insured); and disciplinary action to enforce the statute.

Statutory Duties:

Pursuant T.C.A. § 62-6-108, to make bylaws, rules and regulations; and T.C.A. § § 62-6-111 and 62-6-521, license approvals and disciplinary actions. The Board has approximately 30,000 active licenses and regulates five (5) different professions, as follows:

License Professions

- 1) Contractors (*projects \$25,000 and up*)
 - This license covers Residential, Commercial and Industrial building, as well as Electrical, Mechanical, Plumbing, HVAC, Municipal Utilities, Highways, Railroads and Airports; Heavy Construction; and Specialties.
- 2) Home Improvement Contractors (*projects \$3,000 - \$24,999*)
 - Nine (9) counties have adopted the requirement for a remodeling license, as follows: Bradley, Davidson, Haywood, Hamilton, Knox, Marion, Robertson, Rutherford and Shelby.
- 3) Limited Licensed Electricians (*electrical work less than \$25,000*)
 - This license has been adopted by approximately 65 counties with the majority of electrical inspections performed by the Division of Fire Prevention in lieu of local government.
- 4) Limited Licensed Plumbers (*for projects less than \$25,000*)
 - This license has been adopted by approximately 50 counties with the majority of inspections performed by the Division of Fire Prevention in lieu of local government.
- 5) Contractor Pre-licensed Course Providers (*exam preparation schools*)

Staff: The Board appoints an Executive Director. In addition, there are there are nine (9) employees, plus three (3) contractor inspectors; a total staff of thirteen (13).

Administrative Attachment: The Board for Licensing Contractors is attached to the Regulatory Boards within the Department of Commerce and Insurance and utilizes its attorneys and investigators.

2. Provide a list of current members of the board and explain how membership complies with Section 62-6-104 and 62-6-106, *Tennessee Code Annotated*.

List of Contractor Board Members: See Attachment A.

3. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

Vacancies: Two (2) vacancies (commercial and public member).

A commercial vacancy with an unexpired term of 12/31/19 became vacant due to illness and a public member's term ended on 12/31/17. Trade industry associations have been asked to provide recommendations from either the Middle or West Tennessee grand division (to meet the criteria in the statute) and interested individuals have been interviewed. Once this appointment is made, a public member from another grand division can be chosen. The Governor's office will make these appointments.

4. Have any members been removed from the board as authorized in Sections 62-6-104(b) and 62-6-105(d), *Tennessee Code Annotated*?

Removal: None

5. How many times did the board meet in Fiscal Year 2018 and to date in Fiscal Year 2019? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

- **FY 2018**
6 Meetings
- **FY 2019**
9 Meetings

<u>Date of Meeting</u>	<u>Type of Meeting</u>	<u>Members Present</u>
07/25/2017	Board Meeting	7
09/28/2017	Board Meeting	6
11/28/2017	Board Meeting	8
01/30/2018	Board Meeting	5

03/20/2018	Board Meeting	6
05/22/2018	Board Meeting	7
07/24/2018	Board Meeting	5
09/25/2018	Board Meeting	7
10/09/2018	Summary Suspension Hearing – Teleconf.	7
11/27/2018	Board Meeting	6
12/04/2018	Summary Suspension Hearing – Teleconf.	5
01/30/2019	Board Meeting	6
02/11/2019	Special Called Meeting – Teleconf.	7
03/27/2019	Board Meeting	6
05/21/2019	Board Meeting	5

Pursuant T.C.A. § 62-6-109, the Board is required to meet six (6) times annually with one meeting being in each grand division. A quorum is considered five (5) members.

6, What per diem or travel reimbursements do board members receive? How much was paid to board members in Fiscal Year 2018 and to date in Fiscal Year 2019?

- **Per Diem and Travel:** The per diem is \$50.00 per day pursuant TCA § 56-1-307; travel is in accordance with T.C.A. § 4-3-1008 (3), standard “Department of Finance and Administration Comprehensive Travel Regulations” Policy #8, \$96 for lodging; \$45 M & I; and .47/mile.

	<u>FY 2018</u>	<u>FY 2019</u>
▪ Per Diem:	\$ 2,100	\$1,750
▪ Travel:	\$10,600	\$7,800
▪ Total:	\$12,700	\$9,550

7. What were the board’s revenues and expenditure for Fiscal Year 2018 and to date in Fiscal Year 2019? Does the board carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.

CONT - FY 2018

Total Revenue:	\$ 2,310,903
Total Expenditures:	2,115,805
	<u>195,097</u>

Payment to Go Build TN (50%)	97,549
Balance:	\$97,549

CONT -FY 2019 (thru March)

Total Revenue:	\$ 1,739,281
Total Expenditures:	1,578,857
Balance:	\$160,424

LLE/LLP – FY 2018

Total Revenue:	\$ 107,285
Total Expenditures:	123,106
Balance:	\$(15,821)

LLE/LLP – FY 2018

Total Revenue:	\$ 107,285
Total Expenditures:	123,106
Balance:	*(15,821)

**Due to biennial renewal cycle*

8. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public? Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard?

- **Sunshine Law:** Yes

- **Procedures:**

- The Division of Regulatory Boards provides a monthly activity report with meeting dates, locations at:
- A notice of meetings and hearings are also posted on the Board’s “Public Meetings Calendar” website at: <https://www.tn.gov/commerce/regboards/contractors/public-meeting-information.html>
- Agendas are forwarded to trade associations for posting and distributing to members.

- The Board utilizes a court reporter to record minutes of each meeting. Transcripts and audio are available upon request and links are provided from the Board’s website.
 - The Board allows public comments at meetings and does not require prior notice.
9. Please describe what policies and procedures the board has in place to address potential conflict of interest by board members, staff, and employees.

The Department of Commerce and Insurance requires each employee and Board member to sign a “Conflict of Interest” notice annually. This item is provided on the agenda of every first annual Board meeting (January).

In addition, Board members are presented complaint cases without the names of any of the parties being identified and Board members with prior knowledge of a complaint may recuse themselves from consideration of that matter. Board members are advised by an Administrative Law Judge prior to a formal hearing to disclose conflicts and will recuse themselves on any case where they have prior knowledge.

10. Has the board promulgated rules as authorized in Section 62-6-108(a) and as directed by Sections 62-6-112(b) and 62-6-116(h), *Tennessee Code Annotated*? If yes, please cite the reference.

0680-01-.24 – 0680-01-.31

11. What were the board’s major accomplishments during Fiscal Year 2018 and to date in Fiscal Year 2019?

- Online Licensing for Initial Licensing, Renewals, Revisions and Printing Certificate
- “Hammer Time” Facebook Ad Campaign, June, 2018 – Educating consumers with tips to hiring a contractor and reporting complaints; reached 218,875 Tennesseans
- Customer Service Center

12. How many complaints did the board receive during Fiscal Year 2018 and to date in Fiscal Year 2019? Please provide information about the types of complaints received and provide an explanation of how complaints are tracked, monitored and resolved.

Complaints Received: FY 2018 - 474 / FY 2019 - 321

Types of Complaints: Majority are residential; Unlicensed Activity; Workmanship (roof leaks, punch list items, etc.), Exceeding monetary limit on license; Failure to pay subcontractors; and Failure to complete work.

Tracking: Complaints are tracked and monitored by the Centralized Complaints section. Most complaints are received through the Department of Commerce & Insurance’s online portal, which are

then categorized by the staff of the Centralized Complaints section. Once those complaints have been submitted, the Respondent is provided an opportunity to respond to the allegations. Upon receiving the response, the information is forwarded to the Regulatory Boards' legal division, where disciplinary counsels will review the information and determine whether there is probable cause to cite a violation of the Tennessee law and/or rules. Where necessary, the counsel will request an investigation and/or inspection into the allegations of the complaint. Once a recommendation is formulated, that recommendation is provided to the Board for review at a regularly scheduled Board meeting. The Board, being subject matter experts, will review the allegations and counsel recommendation to determine whether there is a violation and assess disciplinary action where warranted. Disciplinary action ranges from a letter of warning to authorization for a formal hearing seeking revocation of a license. See Tenn. Comp. R. & Regs. 0680-01-.19.

13. Section 62-6-112(a), *Tennessee Code Annotated*, lists nine major Construction Classification in which a contractor may apply for a license. How many applications for each type of license did the board receive during Fiscal Year 2018 and to date in Fiscal Year 2019? In each category, how many licenses were granted? How many were denied and what were the reasons for denial? How many licenses were suspended or revoked during the same period? What were the reasons for the revocations? What is the fee for each type of licensure?

Total Licenses Granted

FY 2018: 1075

FY 2019: 1113

Total Licenses Denied

FY 2018

5 – Due to open complaints / felony convictions / Lack of experience

FY 2019

3 – Due to open complaints

Fee: \$250.00

(See question 17 for information relative to revocations and suspensions)

Licenses for Each Category

FY YR	Res BC-A	Com BC-B	Ind BC-C	*Comb BC	Specialty	*Bldg Sub- Categ	Elect CE	Mech CMC	MU	HRA	Heavy HC	ENVIR
2018	420	287	18	87	253	133	146	84	56	67	119	19
2019	456	303	19	86	240	131	127	96	48	54	107	20

*These classifications cover residential, commercial and industrial

14. What individuals or groups, if any, are exempt from contractor licensure requirements?

- Individual Use - Any person, firm or church, for the purpose of constructing residences or buildings for his/her/its own use, and not for sale, lease or rent and not open to the public (TCA § 62-6-103).
 - Homeowner Exemption - Allowed to obtain one (1) building permit every two years, to build a personal residence on their property.
 - A homeowner may also perform electrical and plumbing work on their own residence without a Limited Licensed Electrician (LLE) or Limited Licensed Plumber (LLP) license.
 - A homeowner living in a Home Improvement (HI) county is exempt from the HI license and may perform work on their rental properties or those for sale or lease.

- Non-profit § 501c(3) groups may construct residences (TCA 62-6-103).

- Students enrolled in educational institutions under supervision of faculty, may construct single residences (TCA § 62-6-103).

- Projects less than \$25,000 - Unless it falls into a county requiring a state LLE, LLP or HI license.

- Subcontractors are exempt from Contractor's licensing, except for the following: electrical, plumbing, mechanical, HVAC or roofing subcontractors performing work \$25,000 or more must be licensed; masonry, if the total project is \$100,000 or more, must be licensed.

- Bids let by the Department of Transportation (TCA§ 62-6-120). However TDOT now requires a license in order to be awarded a project as part of their prequalification procedures.

- Alarm System Contractors licensed by the Alarm Board (TCA § 62-6-135) are exempt from obtaining a separate license as an electrical contractor.

15. How many civil penalties were imposed during Fiscal Year 2018 and to date in Fiscal Year 2019? Please describe the maximum civil penalties that may be assessed against different types of contractors. What was the total amount of penalties imposed under each type of license for Fiscal Year 2018 and to date in Fiscal Year 2019 and how much of that amount was collected:

Civil Penalties Collected:

FY 2018 - \$142,913

FY 2019 - \$162,831

Maximum Civil Penalty:

Unlicensed Activity

- Contractors \$5,000
- Home Improvement \$1,000
- Limited Licensed Electricians \$1,000
- Limited Licensed Plumbers \$1,000

Licensed Prohibited Acts

- Contractors \$1,000
- Home Improvement \$500
- Limited Licensed Electricians \$1,000
- Limited Licensed Plumbers \$1,000

16. How many reports did the board receive concerning unlicensed contractors during Fiscal Year 2018 and to date in Fiscal Year 2019? What actions has the board taken to reduce the number of unlicensed contractors?

FY 2018 – Approximately 200

FY 2019 - Approximately 150

The Board recently hired three (3) contractor inspectors to monitor unlicensed activity.

17. Section 62-6-118, *Tennessee Code Annotated*, provides for the revocation, suspension, and reissuance of licenses. During Fiscal Year 2018 and to date in Fiscal Year 2019, how many licenses were suspended or revoked and for what reason? During the same time period, how many previously suspended or revoked licenses were reissued and what actions were taken by licensees to justify the reissuance of suspended or revoked licenses?

FY 2018

6 - Revoked/Suspended

- Failed to disclose felony conviction for arson and insurance fraud
- Poor workmanship
- Forged certificates of occupancy
- Failure to pay subcontractors
- Failure to complete work after payment made
- Breach of contract

FY 2019

5 - Revoked/Suspended

- Exceeding Licensed Monetary Limit and Fraud
- Allowed use of license by unlicensed contractor
- Failed to complete work
- Poor workmanship; failing codes inspections

- Failed to respond to warranty items

1 – Reissued: Paid \$50,000 civil penalty for exceeding monetary limit on six (6) projects; provided updated financial statement to obtain increased monetary limit and limited to same customers from other states.

18. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in Fiscal Year 2018 and to date in Fiscal Year 2019.

Reports: Activity Report; Disciplinary Action Report; Social Media and Press Releases

Receipt: Media; Website; Social Media and Email Notifications

- Disciplinary Action: <https://www.tn.gov/commerce/disciplinary-actions>
- Upcoming Events Calendar: <https://www.tn.gov/commerce/calendar.contractors.html>
- Public Meetings: <https://www.tn.gov/commerce/resources/public-meetings>
- Get Notified: https://apps.tn.gov/notify-app/sign_up.html
- Social Media: <https://www.tn.gov/commerce/contact-us/press-or-media-contact.html>
- Disaster Recovery: <https://www.tn.gov/commerce/disasters>
- Newsroom: <https://www.tn.gov/commerce/news.html>

19. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

The Board does not have any proposed legislation needed at this time.

20. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of Tennessee?

Continuation: Yes

Affect: An absence of the Contractor’s Board would affect the public health, safety and welfare in many ways.

- Consumers would not have a means to identify a qualified contractor.
- There would not be a resource to file a complaint.
- Licensing provides a deterrent to bad workmanship and encourages codes compliance.

- Licensing also promotes fair construction practices (*level playing field*). Many complaints are received from licensees reporting unfair practices, bidding law violations and failure to pay subcontractors.

**BOARD FOR LICENSING CONTRACTORS
500 James Robertson Pkwy.
Nashville TN 37243-1150**

<u>Member</u>	<u>Function</u>	<u>Term Expiration Date</u>
<p>Randy Chase, Chairman Nashville Machine Co., Inc. P.O. Box 101603 [530 Woody Crest.] Nashville, TN 37224 [37210] Telephone: (615) 244-2030 – Fax: (615) 259-2936 Cell: (615) 405--1020 Email: rchase@nashvillemachine.com</p>	<p>Mechanical Contractor (Middle Grand Division)</p>	<p>12/31/2020</p>
<p>Keith Whittington, Vice Chairman Whittington Construction Co. 102 Daniels Way Johnson City, TN 37615 Cell: (423) 791-0384 Email: kwhittington@whittingtonconstruction.com</p>	<p>Residential Contractor (East Grand Division)</p>	<p>12-31-2021</p>
<p>Andy Allen, Secretary Massey Construction, Inc. 3204 Regal Dr. Alcoa, TN 37701 Cell: (865) 216-0167 Email: aallen@masseyelectric.com</p>	<p>Electrical Contractor (East Grand Division)</p>	<p>12-31-2024</p>
<p>Mark Brodd Blaine Construction Corporation 6510 Deane Hill Dr. Knoxville, TN 37919 (865) 560-2154 – Fax: (865) 539-2212 Cell: (865) 207-3066 Email: mbrodd@blaineconstruction.com</p>	<p>Commercial Contractor (East Grand Division)</p>	<p>06-30-2022</p>
<p>Gerald (Jerry) Hayes J.R. Hayes Construction Co., Inc. P.O. Box 908 [2525 Hwy 79 South] Paris, TN 38242-0908 Telephone: (731) 642-4707 – Fax: (731) 642-8890 Cell: (731) 644-6700 Email: sndoc@yahoo.com</p>	<p>Highway Contractor (West Grand Division)</p>	<p>12/31/2022</p>
<p>Reese Smith, III, Haury & Smith Contractors 2033 Richard Jones Rd. Nashville, TN 37215 (615) 383-9070 - FAX# (615) 383-1522 Cell: (615) 351-8686 Email: rsmith44@haurysmith.com</p>	<p>Residential Contractor (Middle Grand Division)</p>	<p>12-31-2025</p>
<p>Jack (Ronnie) Tickle TAPP Enterprises, Inc. 4800 Navy Rd., Suite 5 Millington, TN 38053 (901) 872-8146 – Fax (901) 873-0411 Cell: (901) 870-4406 Email: jacktickle@aol.com</p>	<p>Residential Contractor (West Grand Division)</p>	<p>06/30/2019</p>

*Vacancies

1 - Commercial
1 - Public Member

*Vacancy for Racial minority and one member from Middle Tennessee and one member from West Tennessee.

Officer Terms – Two (2) Years; Re-Election – January, 2020)