



State
of
Arkansas

CONTRACTORS LICENSING BOARD

4100 Richards Road
North Little Rock, Arkansas 72117
501/372-4661
Fax 501/372-2247

Summary of Contractor Licensing Board's proposed rules stemming from the 2019 legislative session.

These proposed rules are regarding: Bond in Lieu of Financial Statement, Subcontractor Registration, and "Clean Up" Language.

Purpose: The Contractor's Licensing Board is seeking approval of proposed rules propounded in response to new laws passed during the 2019 Legislative Session.

Authority: The Contractor's Licensing Board has authority to make rules pursuant to 17-25-203.

Background: The Arkansas Legislature passed a variety of bills during the 2019 Regular Session that impacted the Contractor's Licensing Board. As a result, it is necessary to promulgate rules to properly implement the laws enacted.

Key Points:

The proposed rules:

1. Create a process to allow for surety bond in lieu of providing a financial statement
2. Create a process for subcontractor registration
3. "Clean Up" language of Rule 224-25-5 regarding classification and experience

Discussion: The new laws implemented changes across a large swath of government agencies. The rules are necessary to implement legal requirements specific to this agency.

Notice is hereby given that the Contractors Licensing Board and the Residential Contractors Committee will hold a public hearing on their proposed changes to their Rules. The Public Hearing will be held on June 07, 2022 at 9:00 a.m. at the offices of the Contractors Licensing Board, 4100 Richards Road, North Little Rock, AR. Written comments from the public will be accepted in advance of the meeting if received prior to June 07, 2022. Written comments should be mailed to: Contractors Licensing Board, 4100 Richards Road, North Little Rock, AR 72117. Proposed modifications to the Rules include, but are not limited to: Subcontractor Registration; Bond in Lieu of a Financial Statement; Military Licensure; Fee Waivers; Criminal Background Checks; Residential Roofer Registrations; and grammatical and stylistic changes to existing rules. Copies of the proposed Rules may be reviewed at the Boards website: www.aclb.arkansas.gov.

ARKANSAS REGISTER

Proposed Rule Cover Sheet

Secretary of State

John Thurston

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov

Name of Department Arkansas Department of Labor and Licensing

Agency or Division Name Contractors Licensing Board

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person Greg Crow

Contact E-mail gregory.crow@arkansas.gov

Contact Phone 501-371-1500

Name of Rule Contractors Licensing Board Rules 224-25-1 -13

Newspaper Name Arkansas Democrat Gazette

Date of Publishing May 02, 2022, May 03, 2022 and May 04, 2022

Final Date for Public Comment June 07, 2022

Location and Time of Public Meeting Contractors Licensing Board, 4100 Richards Road, North Little Rock, AR, 72117 // June 07, 2022 at 9:00 a.m.

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Labor and Licensing
DIVISION Contractors Licensing Board
DIVISION DIRECTOR Greg Crow
CONTACT PERSON Greg Crow
ADDRESS 4100 Richards Road, North Little Rock, AR 72117
PHONE NO. (501) 372-4661 **FAX NO.** (501) 372-2247 **E-MAIL** gregory.crow@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Greg Crow
PRESENTER E-MAIL gregory.crow@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Contractors Licensing Board Rule 224-25-1-13

2. What is the subject of the proposed rule? Subcontractor Registration

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes ☐ No ☐

5. Is this a new rule? Yes ☐ No ☒ If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes ☐ No ☒ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes ☒ No ☐ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

Provides for registration in addition to licensure.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Act 805 of 2019

7. What is the purpose of this proposed rule? Why is it necessary?

It is necessary to comply with Act 805 of 2019

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.aclb.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐ If yes, please complete the following:

Date: 06/07/2022

Time: 9:00 a.m.

Place: 4100 Richards Road, North Little Rock, AR 72117

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

06/07/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

07/01/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Association of General Contractors of Arkansas and Arkansas Building Contractors

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Labor and Licensing

DIVISION Contractors Licensing Board

PERSON COMPLETING THIS STATEMENT Sherry Seiffert

TELEPHONE NO. (501) 372-4661 **FAX NO.** (501) 372-2247 **EMAIL:** sherry.seiffert@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Contractors Licensing Board Rule 224-25-1-13

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

Companies or individuals seeking registration rather than licensure will benefit monetarily. There may be some revenue loss to the agency depending on the number of companies or individuals seeking registration rather than licensure. The agency does not anticipate a significant impact.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Subcontractor Registration Rules – Mark Up Copy

224-25-1 ISSUANCE OF LICENSE OR REGISTRATION

(a) All Contractors licenses or Registrations will be issued under the name and address listed on the front of the application form. The use of any other name may constitute a violation. It is the responsibility of the contractor to inform the Contractors Licensing Board in writing of any name, address, ownership or any other change relating to said license or Registration within 15 days of such change.

(b)(1) All applications for a Contractors license or Registration in the State of Arkansas must be filed as either: (1) individual, (2) partnership, (3) corporation, (4) limited liability company or (5) any other business organization recognized by the Arkansas Secretary of State's Office.

(2) Each application for a license must be supported by a qualifying party, who has satisfactorily completed such examination as may be required by the Board, prior to being issued a license to engage in contracting in the State of Arkansas. Anyone failing to pass such examination may be re-examined at any regular examination period, upon payment of proper fee. Should the qualifying party (business and law or trade) leave a licensed entity, written notice shall be given within fifteen (15) days to the Contractors Licensing Board. The notice shall state the name and position of the individual leaving and the name and position of the individual who will replace the departing qualifier. The replacement qualifier must be fully qualified within thirty (30) days of the departure of the previous qualifier. Any license not renewed within two years of expiration shall be required to re-qualify by examination process, as may be required at the time.

224-25-2 LICENSE OR REGISTRATION EXPIRATION & RENEWAL

(a) Expiration. All licenses and registrations to engage in the business of contracting in the State of Arkansas shall expire at midnight of the date of its expiration. However, a license or registration held by an active duty service person, or their spouse, who is on deployment outside the State of Arkansas shall not expire until 180 days following their return to the State.

(b) Renewal.

(1) Renewal notices will be mailed approximately 60 days prior to the expiration of a license or registration. However, it shall be the responsibility of the holder of the Contractors License or registration to renew said license or registration. Failure to receive a renewal notice shall not excuse the failure to timely renew. A renewal application will be considered timely filed if a completed application is received by the Board by the expiration date.

(2) License renewal ~~Renewal~~ applications received by the Board prior to the expiration date of the license shall be accompanied by a renewal fee of \$50.00 and the licensee may continue to use the license until the next meeting of the Board following the expiration date of the license.

(3) License renewal ~~Renewal~~ applications received within thirty (30) days of the expiration of the license shall be accompanied by a \$100.00 renewal fee. Upon the receipt of the application the license shall be deemed to be reinstated until the Board has met and acted upon the renewal. The reinstatement of a license does not reinstate the license for the time period between the expiration of the license and the receipt of the application by the Board.

(4) Any license renewal application received more than thirty (30) days after the expiration of the license shall be accompanied by a \$100.00 fee and may be reviewed by the Board at its next available meeting. The applicant shall not have a valid license until said application is approved by the Board. A license may be renewed up until two (2) years after its expiration date. Any license expired two (2) years or more may apply for reinstatement.

(5) Any license renewal application not meeting the requirements of the Board at its' initial review, but being placed in an "improve status" will constitute an extension of the existing license until the next available board meeting, at which time the license will expire if a new license is not issued unless it is again placed in "improve" status.

224-25-3 LICENSE AND REGISTRATION APPLICATIONS

Any application not complete within ninety (90) days after original receipt in our office will become invalid. Any application not passing the Board's review will be considered invalid after ninety (90) days from the date of its original review. During the ninety (90) day period the applicant may have the opportunity to make corrections or improvements needed in the application in order to warrant the issuance of a license or registration. After an application becomes invalid a new application and fee must be submitted for consideration to obtain a Contractors License or registration.

224-25-5 CLASSIFICATION & EXPERIENCE

(h) Any contractor holding a specialty classification for which a license or permit is required by another licensing or permitting authority, must hold the necessary license or permit in order to receive a license or registration from the Board.

224-25-7 BIDDING & CLASSIFICATION

(b) Any project being advertised for bid in the State of Arkansas for construction, erection, alteration, or repair of any building or any other structure, must be bid by a licensed prime contractor. However, if the Electrical and Mechanical classification,

considered together, or any other licensed classification specialty, considered by itself, should constitute 80% or more of the total project, the holder of that classification may bid as a prime contractor on the project. A prime Contractor accepts full responsibility for any project except as may be written in the contract with owner.

(e) A Contractor holding the Building classification may enter into general contracts for building construction including all specialty items required in the contract to make the building usable for the purpose intended and may perform these items with his own forces, if qualified, or may sublet such work to qualified specialty contractors skilled in the particular fields involved. It is the specific responsibility of the prime general contractor to furnish the skills required for the proper performance of all the work included in the contract.

224-25-8 COMPLAINTS & INVESTIGATIONS

(a) The purpose of the complaints procedure is to effectively deal with issues effecting the licensure or registration of Contractors. The complaints procedure is not intended to function as a dispute resolution process or a code enforcement process. Any complaint registered with the Contractors Licensing Board of alleged violations must be submitted in writing with proper information to identify job site, owner if possible, any name and phone numbers of individuals and any other information that may tend to be useful in the investigation. The Complainant must furnish his/their name, address and phone number in order to obtain any other information that may be necessary for proper investigation. A written response will be made to a Complainant when investigation is closed if so requested in writing.

(b) A contractor who is licensed or registered shall cooperate with any investigation and provide the Board with all relevant information requested by the Board. The failure to cooperate or to timely provide the Board with relevant information as requested may constitute misconduct in the conduct of the contractors business and may subject the contractor to the revocation of the contractors license or registration.

(c) The Contractors Licensing Board may delegate to the administrator/investigator the authority to obtain contractor compliance as may be necessary. The administrator/investigator will conduct all investigations in such a manner that would be complimentary to the Licensing and Registration Law for Contractors.

224-25-13 REGISTRATION

(a) Pursuant to Ark. Code Ann. § 17-25-102, a contractor may register with the Board. The contractor shall complete the form required by the Board and submit the appropriate fee. A contractor may register for any of the specialty classifications listed in Rule 6(i). The contractor must certify its competence and financial ability to perform the functions for which it is registering.

(b) The Registration fee, for both original and renewal, shall be one hundred dollars (\$100).

Subcontractor Registration Rules – Clean Copy

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