

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The purpose of the proposed amendments to 158:30-1-2 further clarifies definitions; the proposed amendment to 158:30-1-3 adds clarification to the rule regarding license and registration requirements; the amendments to 158:30-5-1 clarifies apprentice plumber registration and the supervision requirements for a journeyman plumber; amendments to 158:30-5-2 allows for clarification regarding bonds and the surety bond process; 158:30-9-1.1 is due to legislation (SB 670) which provides a fee waiver for active duty military and their spouses; the changes to 158:30-9-2 are due to legislation (HB 2933) which provides a one-time low income fee-waiver; and the proposed amendment to 158:30-11-2 provides clarification regarding prohibited acts for plumbing contracting.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the plumbing industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the plumbing industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous rules should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. No fees are established only fee waivers provided in certain circumstances by the proposed rules, thus having a positive economic impact on the classes of persons affected.
5. **COSTS AND BENEFITS TO THE AGENCY:** Although there could be a loss of revenue received by the agency associated with SB 670 and HB 2933, the proposed amendments create a minimal initial cost for software changes to account for licenses issued without the associated fee. The benefit is to have clear, unambiguous rules in place to assist those impacted by the rules.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** Any economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the

proposed rule changes.

9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Licensing helps to protect the health, safety and welfare of the public. Having clear and unambiguous rules regarding licensing requirements should have a positive effect on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 18, 2019.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Plumbing License Law of 1955 as found at 59 O.S. § 1001, *et seq.*, as amended.

"**Administrator**" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

"**Applicant**" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications or for a plumbing code variance from the standard of installation as described in OAC 158:30-1-4 by the Construction Industries Board under the Act.

"**Apprentice**" or "**Plumber's Apprentice**" means any person sixteen (16) years of age or older who, as the principle occupation of the person, is registered pursuant to OAC 158:30-5-1(a) and engaged in learning and assisting in the installation of plumbing under the direct supervision of a licensed journeyman plumber or plumbing contractor.

"**Board**" means the Oklahoma Construction Industries Board.

"**Bonds and Insurance Unit**" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"**Cheating**" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"**Committee**" means the Committee of Plumbing Examiners.

"**Contracting**" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any plumbing work which requires a valid and appropriate license from the Construction Industries Board as required by the Plumbing License Law of 1955, regardless if said work is in exchange for monetary payment or otherwise.

"**Credit Hour**" or "**Hour**" means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

"**Direct supervision**" means the on-the-job physical presence by the supervisor who must be in the work area where the plumbing work is being performed and who also must be a licensed plumbing contractor or plumbing journeyman in the appropriate category for any plumbing work supervised.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided

that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Hearing Board" means the Plumbing Hearing Board.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Plumbing" means and includes:

- (A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;
- (B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;
- (C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;
- (D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;
- (E) the installation of water services and building sewers; and
- (F) sewer cleaning-house sewer maintenance.

"Plumbing License Unit" means the staff and administrative support unit to the Committee of Plumbing Examiners and the Plumbing Hearing Board.

"Property of Residence" means permanently constructed residential property that is an existing single-family dwelling occupied by the individual owner as a primary dwelling where the individual owner's habitation is fixed.

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration who is licensed in another state with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:30-1-4 for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

"Verifiable Experience" means plumbing experience, for which one (1) year of verifiable experience equals two thousand (2000) hours, may be obtained while employed by a licensed plumbing contractor, or by other means approved by the Committee of Plumbing Examiners including equivalent experience earned while serving in the military.

158:30-1-3. License and registration requirement

(a) No person, on his or her own behalf or on behalf of a plumbing firm, shall engage or offer to engage in, by advertisement or otherwise, any plumbing work who does not possess a valid and appropriate license or registration from the Construction Industries Board pursuant to this Chapter.

(b) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

(c) No person shall act in the capacity as a foreman, supervisor or superintendent, regardless of job title, over any plumbing work on behalf of a plumbing contractor unless such person possesses a valid plumbing contractor or journeyman license from the Construction Industries Board.

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS, AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-1. License and registration types

(a) Apprentice plumber registration.

(1) Apprentice plumbers when engaged in plumbing must be under the direct supervision of a licensed plumber ~~when engaged in plumbing~~ who are both employed by the same plumbing contractor.

(2) A maximum of three (3) apprentice plumbers can work under the supervision of a licensed plumber.

(3) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

(4) The apprentice will be registered for a one (1) year period if a completed application form with the apprentice application and registration fee listed in OAC 158:30-9-2(b) is submitted to the Plumbing License Unit along with verification of enrollment in an approved school or training course or a statement of employment by the licensed plumbing contractor who arranged for employment of the apprentice.

(5) When re-registering, the application fee is only required with the registration fee when the registration application is not filed within thirty (30) days of the expiration of previous registration.

(b) Journeyman plumber license.

(1) To engage in the act of plumbing, a journeyman plumber must be employed ~~or~~ and supervised by a licensed plumbing contractor, who may operate as an individual, a firm, partnership, limited liability company, or corporation, or other legal entity to engage in the business of plumbing, or the business of contracting to do plumbing.

- (2) A journeyman shall not contract or furnish labor and/or labor and materials.
- (c) **Plumbing contractor license.** Plumbing contractors must notify their surety of any municipalities wherein plumbing work will be performed.

158:30-5-2. Insurance and bond requirements

(a) Unless as otherwise provided in (b) of this Section: Each active plumbing contractor must maintain a five thousand dollar (\$5,000.00) corporate surety bond, payable to the Board on the Board's call upon the bond, and must cause the surety to ~~deposit~~file a copy of such bond with the Plumbing Licensing Unit.

(b) An active plumbing contractor may also satisfy the requirements of (a) of this Section by ~~depositing~~filing with the Plumbing Licensing Unit, documentation demonstrating cash funds securely held for bonding purposes equivalent to a corporate surety bond of either the sum of \$5,000 cash, or a certificate of deposit in the sum of \$5,000 so held for bonding purposes and payable to the order of the Plumbing Licensing Revolving Fund~~Board on the Board's call upon the bond~~.

(c) Failure to maintain a corporate surety bond in effect shall constitute an inactive contractor status of a bonded plumbing contractor license immediately upon the expiration of such bond.

(d) A corporate surety bond may be accepted from any surety authorized to do business in the State of Oklahoma. It shall continue in effect until thirty (30) days have elapsed after the Bond and Insurance Unit is notified by the surety of the cancellation of such bond, unless the bond expired on a date certain on its face.

(e) A bond or other surety filed in accordance with (a) of this Section shall be in lieu of filing a bond with each municipality where the plumbing contractor works, and shall be conditioned upon all the following terms:

(1) Plumbing contractors shall faithfully and properly conduct business in compliance with applicable statutes, rules of the Oklahoma Construction Industries Board, and with all the applicable ordinances of the municipality in which plumbing work is performed.

(2) Plumbing contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(3) In lieu of a corporate surety, an active plumbing contractor may deposit with the Bonds and Insurance Unit the required amount in lawful money or negotiable bonds of the United States, accompanied by a written instrument, to be approved by the Construction Industries Board, executed and acknowledged by the active plumbing contractor, and setting forth the conditions upon which the deposit is made. When the true owner is other than the active plumbing contractor making the deposit, the instrument shall so state and shall also be executed and acknowledged by the true owner. Upon exoneration, the instrument and deposit may be returned by the Bonds and Insurance Unit to the depositor or the true owner, if the depositor is other than the named true owner, after application of the deposit to claims made pursuant to this Section.

(4) Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security subjects himself or herself to the jurisdiction of the Construction Industries Board and irrevocably appoints the Administrator as his or her agent upon whom any papers affecting his or her liability may be served. Every surety or depositor of security consents to his or her liability being joint and several. Consequently, judgment

may be entered against the surety, or depositor of security, in accordance with his or her obligation simultaneously with judgment against the principal, and execution may thereupon issue.

(5) Plumbing contractors shall protect, save harmless and indemnify the State and municipalities against any liability imposed by law against the State and municipalities for the negligence of said contractor arising from any act or omission while engaged in work pursuant to the Plumbing License Law.

(6) Any aggrieved person may bring an action upon the bond for the recovery of penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.

(7) For purposes of this Section, the term plumbing contractor also includes the agents, servants, and employees of a plumbing contractor.

(f) Exceptions. The bond and insurance requirement will be waived if:

(1) The plumbing contractor wishes to be inactive. A contractor may choose to place his or her license on inactive status and may practice as a journeyman but shall not practice as an active contractor. The inactive contractor can obtain an active license at any time if his or her license is valid and the bond and insurance requirements are met; or

(2) The plumbing contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform plumbing work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

(g) Insurance. A plumbing contractor shall provide proof of financial responsibility by providing a certificate of insurance, which indicates a minimum general liability policy of \$50,000. The Construction Industries Board must be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums. Plumbing contractors are to add the Construction Industries Board to the certificate as a certificate holder but not as an additional insured and with no additional cost to ensure required notification.

(h) Failure to provide the complete information with current bond and insurance certificate or failure to maintain bond and insurance will result in an inactive plumbing contractor's license being temporarily issued until such time as the requirements are met.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure – post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any

jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license or registration issuance.

(b) **Military spouse applicant—equivalency.** See OAC 158:1-3-10 for provisions related to issuance of ~~an equivalent~~ a license or registration in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

158:30-9-2. Fee schedule for contractors, journeymen, and apprentices

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by this Chapter. The cost for each such examination referenced in OAC 158:30-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, registration and annual renewal fees shall be as follows:

- (1) contractors application - \$30.00
- (2) initial contractor license - \$300.00
- (3) renewal contractor license - \$200.00
- (4) renewal contractor late fee - \$100.00
- (5) journeyman application - \$25.00
- (6) initial journeyman license - \$50.00
- (7) renewal journeyman license - \$75.00
- (8) renewal journeyman late fee - \$25.00
- (9) apprentice application - \$5.00
- (10) apprentice registration - \$20.00

(c) **One time low-income fee waiver.** See OAC 158:1-3-13(c) regarding eligibility on a one-time, one-year fee waiver.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:30-11-2. Prohibited acts

(a) No person, entity, or firm may engage in plumbing contracting or perform plumbing work without first obtaining the appropriate license or registration pursuant to this Chapter.

(b) No person shall offer to engage in work as a plumber during the period his or her license is suspended or revoked.

(c) No employing plumbing firm shall employ or use an unlicensed or unregistered plumber to perform plumbing work.

(d) No person, entity, or firm may transfer a license or registration.

(e) No plumber, licensed pursuant to the Act and this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in

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violation of any provision of the Act or this Chapter, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

- (f) No person shall make a materially false or fraudulent statement in an application for license.
- (g) No person may alter a license.
- (h) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.
- (i) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:30-1-2 [AMENDED]

158:30-1-3 [AMENDED]

Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name

158:30-5-1 [AMENDED]

158:30-5-2 [AMENDED]

Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses

158:30-9-1.1 [AMENDED]

158:30-9-2 [AMENDED]

Subchapter 11. License Revocation or Suspension and Prohibited Acts

158:30-11-2 [AMENDED]

SUMMARY:

The proposed amendment to 158:30-1-2 adds two definitions for clarification; the proposed amendment to 158:30-1-3 adds clarification to the rule regarding the role of a plumbing contractor or journeyman. The proposed amendment to 158:30-5-1 clarifies apprentice plumber registration and journeyman plumber license information and the proposed amendment to 158:30-5-2 provides clarification related to the process for surety bonds. Proposed amendments to 158:30-9-1 are related to SB670 and provide a fee waiver for active military and their spouses and amendments to 158:30-9-2 provides a one-time low income fee waiver related to HB2933. The proposed amendment to 158:30-11-2 provides further clarification for the public.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1002

COMMENT PERIOD:

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2020, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

PUBLIC HEARING:

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 29, 2020, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m. See "Additional Information" section below.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to the Administrative Rules Division through the close of the comment period on January 17, 2020, at the address shown below for obtaining copies of the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at www.cib.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 31, 2019, at the address listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550

ADDITIONAL INFORMATION:

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 29, 2020, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 29, 2020, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 12, 2020, at 1:30 p.m., in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.