

State of Arkansas  
Contractors Licensing Board  
Newsletter



4100 Richards Road, North Little Rock, AR 72117 / (501) 372-4661

February 2, 2009

State of Arkansas  
Contractors Licensing Board  
Greg Crow, Administrator  
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North Little Rock, AR 72117  
(501) 372-4661  
FAX No. (501) 372-2247

**COMMERCIAL BOARD MEMBERS**

**Ray Nabholz**  
Chairman .....Springhill  
**Mike Hocutt**  
Vice Chairman .....Little Rock  
**Scott Copas**  
Secretary..... Little Rock  
**Steve Russell** ..... Little Rock  
**Randy McNulty**.....Pine Bluff  
**Dan Wright** .....Little Rock  
**Cecil Malone**.....Little Rock

**RESIDENTIAL BOARD MEMBERS**

**Emily Rucker**  
Chairman..... Alma  
**Bruce Cozart**  
Vice Chairman.....Hot Springs  
**Hubert Glenn**  
Secretary..... ElDorado  
**G.L "Bill Bosley** .....Little Rock  
**Jim Chidress** .....Cabot  
**David Hargrave** ..... Lowell  
**Jack Hales** ..... Rogers

**CHECK OUT OUR NEW WEBSITE @  
[www.arkansas.gov/clb](http://www.arkansas.gov/clb)  
for the following information:**

- Contractors Licensing & Bond Law
- Rules and Regulations
- Contractors Search
- New and Renewal Applications
- Name Change/Bond Forms
- Amended Classification Forms
- Complaint Forms
- New Arkansas Links such as NASCLA

**NEWS FROM THE CONTRACTORS BOARD**

**Construction Industry Conference Scheduled for February 20<sup>th</sup>**

The Board is proud to be a sponsor of the 5<sup>th</sup> Annual Construction Industry Conference, which will be held on February 20, 2009 at the Embassy Suites Hotel in Little Rock. This is again an exciting conference for Contractors, Engineers, Architects, Attorneys and anyone else involved in construction. The conference is sponsored by the Associated General Contractors, the Associated Builders and Contractors of Arkansas, the Home Builders Association of Arkansas, the Home Builders Association of Greater Little Rock, the Arkansas Subcontractors Association of Central Arkansas, and many others. A wide range of topics will be covered, including, lien law, immigration and its effect on contractors, OSHA, Storm Water, "Green" building and alternate delivery methods. A registration form is attached to this Newsletter. In addition to an outstanding slate of topics, attendees will be treated to lunch and a reception after the conference. The cost of the conference, for contractors, is \$75 if you register on or before February 6, \$85 if you register after that date. Last years conference was a big hit with all attendees, but especially among contractors. We began to receive phone calls within days of the conference wanting to know when the next one would be scheduled. I hope to see many of you at this year's conference.

**Governor Beebe Reappoints Scott Copas and Cecil Malone  
To The Board**

Governor Mike Beebe has reappointed Scott Copas, of Baldwin & Shell Construction to the Board. Mr. Copas was appointed for a five-year term, to expire in 2013. Mr. Copas has served on the Board since 2001. The Governor also reappointed Cecil Malone to the Board for a five-year term. Mr. Malone is a Consumer Representative. Mr. Malone has served on the Board since 2002.

**Governor Beebe Appoints David Hargrave and Reappoints  
Hubert Glenn to the Residential Committee**

Governor Mike Beebe has appointed David Hargrave to the Residential Committee for a three-year term, to expire in 2011. Mr. Hargrave is a consumer member of the Committee and is from Lowell. Governor Beebe also reappointed Mr. Hubert Glenn to the Committee as a consumer member. Mr. Glenn is from El Dorado. This is the second term for Mr. Glenn who has served on the Committee since 2005.

**From the Desk of Greg Crow, Administrator**

As the construction industry opens a new year, it has never been clearer what a vital roll construction plays to the economy of our state and our nation. The Staff of the Board works very hard to serve both the industry and the public. We make every attempt to make the licensing and renewal process as "painless" as possible. We are constantly reviewing our process to see if it can be improved or streamlined. We are now working on a process that will allow contractors to complete the renewal

application on-line. We are constantly looking for ways to make the licensing process, both for new licensees and for those renewing their license, as smooth as possible. We work hard to protect the public and serve the industry. We always appreciate any input on ways we can better serve you.

**From the Desk of Vicki Pickering,  
Staff Attorney  
What is the difference between a  
Residential project and a Commercial  
project?**

There are two separate boards located within the Arkansas Contractors Licensing Board. First, the Arkansas Contractors Licensing Board regulates and issues licenses to commercial contractors, which covers all construction exempting only single family residences. The Arkansas Residential Building Contractors Committee is the state board that licenses and regulates residential construction in Arkansas.

The Arkansas Contractors Licensing Board has been regulating commercial construction since 1939. In 1999 the legislature created a separate Board, the Residential Building Contractors Committee, to regulate residential construction. The Commercial Board holds hearings monthly while the Residential Committee holds hearing every other month to consider alleged violations of the respective licensing laws.

While the distinction between commercial and residential construction might seem fairly simple, the line between the two tends to blur when you're looking at duplexes, triplexes, or fourplexes. Each project is determined on a case by case basis and it is decided whether the construction is commercial or residential depending upon the particular facts of each case.

The commercial law specifically exempts single-family residences from its definition in Ark. Code Ann. § 17-25-101(a) (1). Single-family residences are defined in commercial regulation 224-25-12 as "any **project** consisting of one but not more than four units constructed for residential occupancy, any project consisting of five or more units is considered multi-family housing." The residential law similarly defines single family residence in Ark. Code Ann. § 17-25-502(3) as "any **project** consisting of one (1) but not more than four (4) units of new construction for residential occupancy."

The legislature and the board specifically use the word **project** in the law. Therefore, the type of construction hinges on what constitutes a project. The historical interpretation by the staff and one that has been adopted by the Commercial Licensing Board is that the project is defined by the plot of land and is not based solely on the number of units in the structure. In determining whether the project is residential or commercial, one should look primarily at how the land is divided, and the issue becomes how many units are on one plot of land as opposed to how many units are in one structure.

**How is the land subdivided?** In most cases, if the plot of land is subdivided into separate lots, and there is one structure consisting of four units or less on each lot, the project will be considered residential. However, if there are a series of structures on one plot and the total number of units on the plot is more than four units, the project is usually considered commercial.

Other factors the Board and Committee consider in determining what constitutes a project making the construction residential or commercial are as follows:

**Is the property for sale or rent?** If the land is subdivided, the owner has the right to sell the property, indicating that the building is residential in nature. If the buildings are all on one lot, the owner might be more likely to lease or rent the units which would point toward the project being commercial.

**What type of loan does the owner have?** Whether the owner has one commercial loan for the entire development or separate residential loans for each structure is a factor to be considered in determining the nature of the project.

**What is the nature of the contract and are the same subcontractors used for each structure?** If the owner hires the same contractor to do every building and uses only one contract for the entire project, this would indicate that the project is meant to be commercial. If different contractors are used on each structure and there are separate contracts for each building, this might be a factor in indicating that it is residential.

**What representations are made to city and state officials?** Another factor to consider is the representations the owner or contractor makes to permitting officials.

**Does the project appear to be commercial or residential?** Even if the land is subdivided, the Board may look at whether the owner is intending to build a complex or project. If there are common areas, common sidewalks, maybe a swimming pool, the series of structures may be considered a project even if the buildings are on separate lots.

In conclusion, there are many factors to consider in determining whether certain types of projects are commercial or residential. It is a matter that is determined on a case-by-case basis and hinges on what constitutes a project based on the facts of each case.

If you have any questions about the licensure of contractors or whether a project is considered commercial or residential, you may contact our staff at any time.

## From the Desk of Elizabeth Wisdom

We are currently working on the online renewal process. It is too early to tell you exactly when it will be ready, but we are very hopeful it will be soon. When the online process is complete it will be a simple matter of going online to pay your filing fee and fill out the application. Contractors will no longer have to get the renewal by mail. Our web site is [www.arkansas.gov/clb](http://www.arkansas.gov/clb). We will provide you with more information at a later date.

The vast majority of contractors renew their licenses in the months of March, April, May and June. Here again are a few reminders to make the process go smoothly:

### COMMERCIAL CONTRACTORS

It is a stressful time for the CPA's so remember that as long as the application and fee are on time, the financial statement can come later, and the client can continue to use the license for almost two months. For example, if a license expires on March 31<sup>st</sup> and the application and fee are filed by March 31<sup>st</sup>, as long as the financial statement is here no later than the 14<sup>th</sup> of May, for the meeting held on May 22<sup>nd</sup>, the license will remain current until May 22<sup>nd</sup>, so don't panic! If an application is received without a financial statement, we will contact you and advise you of what is needed and the appropriate deadlines.

Please remember that the deadline for any application is 7 business days prior to a Friday meeting. Applications, or information necessary to complete the application, received after that date will not be on the agenda until the next meeting. We must have time to work each application and prepare for the Board meeting.

Please check the preprinted renewal form carefully. If there are any changes that need to be made, please make them. We assume everything is correct unless you tell us otherwise. Phone numbers and mailing addresses must be kept current. If you have a change please contact us in writing as soon as the change takes place.

Please make sure your qualifiers are correct. Classifications and even licenses can be lost without proper qualifiers.

Renewal application, are on our web site at [www.arkansas.gov/clb](http://www.arkansas.gov/clb), bond law, as well as rules and regulations are also on the web and are updated when a change takes place at the legislature. It is a good idea to refresh your memory once in a while.

### RESIDENTIAL CONTRACTORS

Several of the residential contractors are having a problem with the balance sheet requested to renew or submit a new license. A positive net worth of the company must be maintained in order to renew. We have a preprinted balance sheet that has been approved by the residential committee. If you would like us to fax or mail a copy to you please ask. Here are some problems we have seen:

The license is issued in the name you applied for. This is the only name you can use to operate your business. Make sure when you apply for a license that you understand the difference between a sole proprietorship, partnership, corporation, LLC and so on. A license held by an individual does not authorize a corporation, even a corporation owned by that individual, to work as a contractor.

**Financial Statements:** While, unlike commercial contractors, you can prepare your own balance sheet, the information has to be correct. By signing the renewal form you are stating, under oath, that the information provided is in fact true and accurate. We constantly receive balance sheets that list no bank accounts or list assets such as tools or vehicles that should have been depreciated or expensed. Equipment on the balance sheet must be depreciated value. Do not forget to list the houses in progress. The cost to date of the asset, the total draw from the bank is a liability. We receive many balance sheets with no liabilities. While this is possible, for most people this is not the case with an ongoing business. Most contractors owe some liabilities to suppliers, banks, etc. If you do not understand your balance sheet, get some help from a CPA. The only way you have to gauge the financial health of your business is to have a correct balance sheet. The balance sheet is just as important to you as your tools or your subcontractors.

# 5<sup>th</sup> Annual Construction Industry Conference

## Friday, February 20, 2009

### \*\*\*\*REGISTRATION FORM\*\*\*\*

Name \_\_\_\_\_

Name for Name Badge \_\_\_\_\_

Company or Firm \_\_\_\_\_

Profession \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_

Email Address \_\_\_\_\_

#### Industry Attendees (Early Registration)

(On or before February 6, 2009)

**\$75.00**

(After February 6, 2009)

**\$85.00**

Total \$ \_\_\_\_\_

Method of Payment:

Check \_\_\_\_\_ Visa \_\_\_\_\_ MC \_\_\_\_\_ AMEX \_\_\_\_\_

Card No. \_\_\_\_\_ Exp. Date \_\_\_\_\_

Signature: \_\_\_\_\_

**RETURN REGISTRATION FORM TO:**  
**Arkansas Bar Association – CLE**  
**224 Cottondale Lane, Little Rock, AR 72202**  
**Fax Credit Card Registration to: 501-375-3961**  
**Registrations may be done via Telephone**  
**(800) 609-5668 or (501) 375-4606**