

ALABAMA ADMINISTRATIVE CODE

Chapter 465-X-3
Licensing



ALABAMA LICENSE RULES

ALABAMA CODE CHAPTER 14A:



Continuing Education Requirements for Licensees and Designated Qualifying Representatives.

► (1) Beginning with the 2022 licensure year, all active individual licensees and/or the designated qualifying representative for an active corporation, limited liability company, or partnership licensee shall obtain six (6) credit hours of continuing education taught by a Board approved provider or instructor each year in order to maintain an active license.

CONTINUING EDUCATION
REQUIREMENTS **465-X-8-.03**



(2) A licensee and/or the designated qualifying representative for an active corporation, limited liability company, or partnership licensee may carry over up to six (6) hours of continuing education hours from one licensure period to the following licensure period.

(3) Licensees and/or the designated qualifying representative for an active corporation, limited liability company, or partnership licensee are required to complete at least two (2) credit hours each year of Alabama specific courses approved by the Board.

CONTINUING EDUCATION
REQUIREMENTS **465-X-8-.03**



(5) Licensees/DQRs may complete the remaining credit hours each year from approved elective courses.

(6) Credit hours taken to meet continuing education requirements for similar professions and taught by Board approved instructors may be used to meet the Board's continuing education requirements. Licensees seeking credit for courses taken to meet continuing education requirements for similar professions not taught by a Board approved instructor may follow instructions set forth in Ala. Admin. Code r. 465-X-8-.03(7) below.

CONTINUING EDUCATION REQUIREMENTS 465-X-8-.03



(7) Licensees seeking credit for a non-traditional continuing education course must submit the written request and any required documentation to the Board with the required fee for review and approval within 30 days of completion of the course for which approval is sought.

(9) Remedial education courses ordered as a part of disciplinary action by the Board shall not count toward the six (6) hours of continuing education.

CONTINUING EDUCATION REQUIREMENTS 465-X-8-.03



► **Exemptions. The continuing education requirement of the Act shall not apply to:**

- (1) All active licensees age 60 and over, on or before October 1, at the start of the license renewal period. Proof of age must accompany renewal license application.
- (2) Licensees possessing an inactive license, including building officials.

CE EXEMPTIONS



- (3) Licensees who are a United States Armed Forces reservist or serve in the national guard or air guard, who were activated and/or deployed a time period exceeding ninety (90) consecutive days during a licensure year, shall be exempt from the continuing education requirement for one preceding renewal period. Proof must accompany renewal license application.
- (4) Any licensee applicant who qualifies under the provisions of the Military Family Jobs Opportunity Act and the Board's administrative regulations, may be exempt from the continuing education requirement during the first year of licensure.
- (5) Licensees submitting renewal application for the first renewal year after receiving initial license.

CE EXEMPTIONS



- ▶ (1) Upon written request and proof that the licensee, designated qualifying representative, or family member has suffered a hardship resulting from a major catastrophic event that resulted in the destruction or damage to personal and/or business property, or a major medical issue that prevented the licensee from working, the Board may, in its discretion waive the continuing education requirement for one renewal year.
- ▶ (2) Upon determination by the continuing education committee that a major catastrophic event, natural or otherwise, has caused such widespread loss to personal and/or business property or caused significant economic hardship to licensees, it may recommend to the Board suspension of the continuing education requirement for all licensees for one renewal year.

PERSONAL HARDSHIP



REQUIREMENTS FOR LICENSING



- ▶ **465-X-3-.01 Requirement for Licensing.** All residential home builders shall have and maintain a current license issued by the Board.
- ▶ A license is current only during the calendar year in which it is issued.
- ▶ Unless renewed, a license automatically shall expire at the end of the calendar year for which it was issued.

465-X-3-.01 REQUIREMENTS FOR LICENSING



- ▶ Individuals
- ▶ Companies that employ a qualifying representative.

WHO CAN BE LICENSED?



- ▶ **QUALIFYING REPRESENTATIVE.** The individual designated by a general partnership, limited partnership, corporation, limited liability company, or not-for-profit organization applying for a license who either holds a license individually or meets the experience and ability requirements for licensure, and who is one of the following:

DEFINITIONS



- ▶ a. A general partner in the case of any partnership.
- ▶ b. An officer in the case of a corporation.
- ▶ c. A member in the case of a member-managed limited liability company.
- ▶ d. A manager in the case of a manager-managed limited liability company.

DEFINITIONS



- ▶ (12) **RESIDENTIAL HOME BUILDER.** A person who constructs a residence or structure for sale or who, for a fixed price, commission, fee, or wage, undertakes or offers to undertake the construction or superintending of the construction, or who manages, supervises, assists, or provides consultation to a homeowner regarding the construction or superintending of the construction, of any residence or structure that is not over three floors in height and that does not have more than four residential units, or the repair, improvement, or reimprovement thereof, to be used by another as a residence when the cost of the undertaking exceeds ten thousand dollars (\$10,000).

DEFINITIONS



- ▶ The term includes a residential roofer when the cost of the undertaking exceeds two thousand five hundred dollars (\$2,500).
- ▶ Nothing herein shall prevent any person from performing these acts on his or her own residence or on his or her other real estate holdings. Anyone who engages or offers to engage in any acts described in this subdivision, through advertising or otherwise, shall be deemed to have engaged in the business of residential home building.

DEFINITIONS



- ▶ (1) All residential home builders shall be required to be licensed by the Home Builders Licensure Board annually.
- ▶ (2) The board may issue more than one type of license.
- ▶ (3) The board may issue licenses that vary in scope of work authorized, including, but not limited to, licenses without limitation and with limitation.

34-14A-5. LICENSES REQUIRED;



- ▶ **465-X-3-.03 Exemptions.** The licensing requirements of the Act shall not apply to:
 - ▶ (1) Any employee of a licensee who engages in the residential home building business solely as the employee of that licensee and personally does not hold himself or herself out for hire or engage in contracting;
 - ▶ (2) An authorized employee of the United States, the state of Alabama, or any municipality, county, or other political subdivision if the employee personally does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment;

465-X-3-.03 EXEMPTIONS.



- ▶ **465-X-3-.03 Exemptions.** The licensing requirements of the Act shall not apply to:
 - ▶ (3) General contractors who, on January 1, 1992, held a valid general contractors license issued under Title 34, Chapter 8 of the Code of Ala. 1975, and who continue to maintain that license in good standing; **(License Numbers 1-18907)**
 - ▶ (4) Licensed real estate agents, licensed engineers, and licensed architects operating within the scope of their respective licenses on behalf of clients;

465-X-3-.03 EXEMPTIONS.



- ▶ (5) **Owners of property acting as their own contractors** and providing all material supervision themselves in the building or improvement of one-family or two-family residences on their own property for their own occupancy or use, which residences are not offered for sale to the public. For the purpose of the Act and these rules:
 - ▶ (a) Owners shall be deemed to have acted as their own contractors if they do not hire or compensate anyone to supervise the building or improvement of their residences or any part thereof; and
 - ▶ (b) Proof of the sale or offering for sale of such structure by the owner-builder within one year after completion of same is presumptive evidence that the construction was undertaken for the purpose of sale;

465-X-3-.03 EXEMPTIONS.



- ▶ (6) **Mobile homes**, or any structure that is installed, inspected, or regulated by the Alabama Manufactured Housing Commission, or the repair, improvement, or reimprovement of any such structure, and shall not in any way change or interfere with the duties, responsibilities and operations of the Alabama Manufactured Housing Commission as defined in Code of Ala. 1975 §§ 24-4A-1, 24-6-4;

- ▶ (7) **Agricultural Buildings**

465-X-3-.03 EXEMPTIONS.



- ▶ (4) The board may issue licenses that vary in requirements for licensure, including, but not limited to, evidence of experience and ability and financial responsibility, as determined by the cost of the undertaking.
- ▶ (5) The board may charge varying fees for licensure.

34-14A-5. LICENSES REQUIRED;



- ▶ Each applicant shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government.
- ▶ The board in examining the applicant shall consider the following qualifications of the applicant:
 - ▶ (1) Experience.
 - ▶ (2) Ability.

QUALIFICATIONS FOR LICENSURE



- ▶ (3) Character.
- ▶ (4) Business-related financial condition.
- ▶ (5) Ability and willingness to serve the public and conserve the public health and safety.
- ▶ (6) Any other pertinent information the board may require.

QUALIFICATIONS FOR LICENSURE



- ▶ (2) A person holding an expired license who seeks to reactivate his or her license within three years of the date of expiration shall be deemed to have satisfied the experience and ability requirements for licensure if application is made within the three-year time period and all other licensing requirements pursuant to subsection (a) have been met.

EXPIRED LICENSES



- ▶ (1) Form of License. Licenses shall be issued only to individuals, partnerships, corporations, limited liability companies, and not-for-profit organizations:

- ▶ (a) An individual applying for a license personally must satisfy all the licensure requirements.
- ▶ (b) A partnership, corporation, limited liability company, and not-for-profit organization applying for a license must satisfy all licensure requirements.

LICENSING 465-X-3-.04



- ▶ 1. A general partnership, limited partnership, corporation, limited liability company, or not-for-profit organization applying for a license must designate as its qualifying representative an individual who is either a general partner or an officer or a managing member and who either holds a license individually or meets the experience and ability requirements for licensure.
- ▶ The entity seeking the license may rely upon the designated qualifying representative's experience, ability, and successful completion of any examination, but must present evidence to the Board that it satisfies all other licensing requirements.

LICENSING 465-X-3-.04



- ▶ 2. If the designated qualifying representative of a partnership, corporation, or limited liability company ceases to be a partner or officer or member or managing member of that entity, the designated qualifying representative and the partnership, corporation, or limited liability company immediately shall so notify the Board.
- ▶ You have 45 days to replace the designated qualifying representative before your license is revoked.

LICENSING 465-X-3-.04



- ▶ (c) The extent to which a residential home builder may engage in the residential home building business depends upon the form of license held:
- ▶ 2. A residential home builder who is the designated qualifying representative of an entity may engage in the residential home building business only through that entity;
- ▶ If such builder wishes to engage in the residential home building business either individually or through another entity that is not otherwise licensed, that builder must obtain a license, either individually or on behalf of the other entity, of which the builder may be the designated qualifying representative.

LICENSING 465-X-3-.04



- ▶ (i) ABC Builders, Inc. has three officers, each of whom meets the experience and ability requirements for licensure. Adams is the qualifying representative of the corporation. Brown individually meets all the licensing requirements, including without limitation the financial responsibility requirement, and obtains an individual license. Carter is not licensed, either individually or as the qualifying representative of the corporation. Adams and Carter may engage in the residential home building only through ABC Builders, Inc., but **Brown may do so either individually or through ABC Builders, Inc.**

LICENSING SCENARIO EXAMPLES



- ▶ (ii) Five years after ABC Builders, Inc. was issued a license, Adams decides to engage in the residential home building business through a newly formed partnership, Adams Builders, of which he is a partner. Adams Builders applies for a license, naming Adams as its qualifying representative. **Because he is the qualifying representative of ABC Builders, Inc., Adams is deemed to have satisfied the experience and ability requirements for licensure, but Adams Builders will have to satisfy all other requirements for licensure,** including without limitation the financial responsibility requirement.

LICENSING SCENARIO EXAMPLES



- ▶ (iii) Five years after ABC Builders, Inc., was issued a license, Carter decides to engage individually in the residential home building business. **Because Carter is neither the qualifying representative of ABC Builders, Inc. nor licensed individually, Carter will have to satisfy all of the requirements for licensure,** including the experience and ability requirements, which means successful completion of any examination testing experience and ability, conducted either by the Board or a third party under contract with the Board.

LICENSING SCENARIO EXAMPLES



- ▶ (a) Licenses may be issued without limitation, with limitation, or with limitation specifying a single trade.
- ▶ (b) The extent to which a residential home builder, including residential roofer, may engage in the residential homebuilding business depends upon the type of license held:

TYPES OF LICENSES



DISCIPLINARY ACTIONS



- ▶ (e) (1) Each licensee shall notify the board within 10 days after notice of the institution of any felony criminal prosecution against him or her. The notification shall be in writing, by certified mail, and shall include a copy of the specific charge made together with a copy of the indictment, information, or the complaint, affidavit, and warrant making the charges.
- ▶ (2) Each licensee shall notify the board in writing by certified mail within 10 days after he or she receives the notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed.

CRIMINAL CHARGES



- ▶ (a) The board may levy and collect administrative fines not to exceed five thousand dollars (\$5,000) for each violation or revoke or suspend the license of any licensee who, in the opinion of the board, has committed fraud or deceit in obtaining a license required by this chapter, who has been guilty of gross negligence, incompetence, or misconduct in the practice of residential home building, who has engaged in the business of residential home building outside the scope of the license, or who has violated this chapter or a board rule.

34-14A-8. REVOCATION OF LICENSES; REISSUANCE.



██████████ Custom Homes, Inc.
 ██████████ Designated Qualifying Representative

Date of Action: October 22, 2020
Deposition: Licensee was charged with **failure to perform residential home building in a reasonable manner** and misconduct in violation of Ala. Code 34-14A-8 (1975). Prior to the time and date set for a hearing, a settlement was reached. *Licensee agreed to pay a \$5,000 administrative fine and twelve (12) hours of builder education.*


██████████ Designated Qualifying Representative

Date of Action: October 22, 2020
Deposition: Licensee was charged with **misconduct** in violation of Ala. Code § 34-14A-8 (1975). Prior to the date and time set for a hearing, a settlement was reached. *Licensee agreed to pay a \$1,000 administrative fine and six (6) hours of builder education classes.*

██████████ Custom Homes, LLC
 ██████████ Designated Qualifying Representative

Date of Action: October 22, 2020
Deposition: Licensee was charged with **misconduct** in violation of Ala. Code § 34-14A-8 (1975). Prior to the date and time set for a hearing, a settlement was reached. *Licensee agreed to pay a \$1,000 administrative fine and six (6) hours of builder education classes.*


██████████
Date of Action: October 22, 2020
Deposition: Licensee was charged with **gross negligence, incompetence, and misconduct** in violation of Ala. Code § 34-14A-8 (1975) and violation of Ala. Admin. Code r. 465-X-3-.04(1)(c)3. Prior to the issuance of a formal Summons and Complaint, a settlement was reached. *Licensee agreed to pay a \$15,000 administrative fine and complete twelve (12) hours of builder education classes.*



▶ (3) **Considerations.** In determining whether a license should be revoked or suspended and whether execution of a revocation or suspension order should be stayed, and if so, under what conditions, the Board shall consider all the relevant factors, including, but not limited to, the following:


- ▶ (a) The severity of the offense;
- ▶ (b) The danger to the public;

CONSIDERATION OF PENALTIES




- ▶ (c) The number of repetitions of offenses;
- ▶ (d) The length of time since the date of violation;
- ▶ (e) The number of complaints filed against the licensee;
- ▶ (f) The licensee's experience;
- ▶ (g) The actual damage, physical or otherwise, to the complainant;

CONSIDERATION OF PENALTIES



- ▶ (h) The deterrent effect of the penalty imposed;
- ▶ (i) Any efforts at rehabilitation; and
- ▶ (j) Any other mitigating or aggravating circumstances.

CONSIDERATION OF PENALTIES



- ▶ (a) The board may establish a Homeowners' Recovery Fund for the purpose of consumer protection, consumer education, and consumer awareness. An aggrieved homeowner may recover actual economic damages, not including interest and court costs, sustained within the state as the direct result of conduct of a licensee in violation of this chapter or the rules of the board from the Homeowners' Recovery Fund.

34-14A-15. RECOVERY FUND.



- ▶ (c) Each licensee shall, on order of the board, pay a fee not to exceed sixty dollars (\$60), no more than once a year, per licensee for deposit in the Homeowners' Recovery Fund. A licensee on inactive status shall not be required to contribute to the Homeowners' Recovery Fund. The annual Homeowners' Recovery Fund fee shall be set by the board after considering all expenses incurred by the board in defending, satisfying, or settling any claims paid from the homeowners' recovery fund.

34-14A-15. RECOVERY FUND.



- ▶ (e) In the event the board pays from the Homeowners' Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the board may revoke the license of the licensee, and may no longer recognize the experience and ability qualifications of the individual licensee or the qualifying representative of the licensee for licensing purposes.

34-14A-15. RECOVERY FUND.



- ▶ (f) Each licensee shall utilize a valid written contract when engaging in the business of residential home building.

CONTRACTS ARE REQUIRED



- ▶ Prior to the commencement of residential home building by a residential home builder, the residential home builder shall disclose in writing to the homeowner whether the residential home builder has obtained and is currently maintaining liability insurance.
- ▶ The written disclosure shall be signed by the residential home builder and the homeowner and attested by one witness selected by the homeowner. Failure of a residential home builder to comply with this section is a violation of this chapter and punishable by the board.

34-14A-19. PROOF OF LIABILITY INSURANCE
PRIOR TO CONSTRUCTION.

