

CHAPTER 465-X-2
ORGANIZATION, ADMINISTRATION & PROCEDURE

TABLE OF CONTENTS

465-X-2-.01	Purpose
465-X-2-.02	Officers
465-X-2-.03	Executive Director; Board Members
465-X-2-.04	Meetings
465-X-2-.05	Voting
465-X-2-.06	Roster of Licensees
465-X-2-.07	Applicability of the Act
465-X-2-.08	Declaratory Rulings
465-X-2-.09	Advisory Opinion

465-X-2-.01 Purpose. The Alabama Home Builders Licensure Board was created to regulate the home building, residential construction, and remodeling industries and to provide home building standards in the state of Alabama.

Authors: David R. Boyd, Dorman Walker, Lois Woodward

Statutory Authority: Code of Ala. 1975 §§ 34-14A-1, *et seq.*

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993.

465-X-2-.02 Officers. The Board annually shall elect from its members a Chairman, Vice Chairman and Secretary/Treasurer. The Chairman shall exercise general supervision of the Board's affairs, shall preside at all meetings when present, shall appoint all committees, sign all vouchers or, on approval of the Board, may delegate this duty to the Executive Director, and shall perform all other duties pertaining to this office. The Vice Chairman, in the absence of the Chairman, shall perform all the duties of the Chairman.

Authors: David R. Boyd, Dorman Walker, Lois Woodward, Kathy Perry Brasfield

Statutory Authority: Code of Ala. 1975, §§ 34-14A-11.

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993. **Amended:** Filed September 4, 1998; effective October 9, 1998.

465-X-2-.03 Executive Director; Board Members.

(1) The Board shall select and employ an Executive Director who shall be responsible for the administration of Board policies. The Executive Director shall fulfill the duties assigned to the executive secretary, secretary/treasurer, or secretary in the Act and Alabama Administrative Procedure Act. The Executive Director shall be designated as the agent for the Board for service of legal process upon the Board and act as its recording and corresponding secretary. The Executive Director, or his designee, shall serve as custodian of records for the Board. The Executive Director shall have custody of and shall safeguard and keep in good order all property and records of the Board; cause written minutes of every meeting of the Board to be kept in the book of minutes of this Board; sign all instruments and matters that require approval of the Board; act as Treasurer and receive and deposit all funds to the credit of either the "Home Builders Licensure

HOME BUILDERS LICENSURE BOARD

Board Fund," the "Property Acquisition Fund," or the "Homeowners' Recovery Fund" in the state treasury; sign all bills before requesting the state comptroller to make payment of any accounts; and perform such other duties as the Board, the Chairman, the Vice Chairman, or the Secretary/Treasurer may assign. The records kept shall include, without limitation, all license applications and supporting documentation and information; all other evidence of the important business transactions of the Board; a complete and permanent record of all applications rejected, licenses issued, and the findings of the Board regarding all examinations; all enforcement and disciplinary actions taken by the Board; all jurisdictions covered by the Act; and a correct permanent record and account of the monies and funds of the Board kept in accordance with sound accounting principles. Upon the Board's instruction, the Executive Director may issue licenses in accordance with the standards established by the Board. All correspondence to the Board, including requests for information and all submissions of the requests should be made to the Executive Director at the Board's office in Montgomery, Alabama.

(2) The Board may employ other full or part-time administrative staff, including an administrative assistant and secretaries or others, who shall work under the direction and supervision of the Executive Director.

(3) All Board administrative staff, including the Executive Director and the administrative assistant, shall be entitled to reimbursement for travel the same as other employees of the state of Alabama, including actual expenses for authorized out-of-state travel, and per diem and transportation costs for in-state travel. Members of the Board may also receive \$300.00 per day, not to exceed fifteen days per year, for attending meetings of the Board or its committees.

(4) The titles "Executive Secretary" and "Executive Director" may be used interchangeably.

Authors: David R. Boyd, Dorman Walker, Lois Woodward, Kathy Perry Brasfield.

Statutory Authority: Code of Ala. 1975, §§ 34-14A-3, 34-14-A-4, 34-14A-8, 34-14A-11, 41-22-1 *et seq.*

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993; Amendment and Emergency Amendment filed June 20, 1994; Emergency Amendment effective June 20, 1994; Amendment effective October 28, 1994. **Amended:** Filed May 6, 2002; effective June 10, 2002. **Amended:** Filed August 4, 2006; effective September 8, 2006. **Amended:** Filed August 25, 2011; effective September 29, 2011.

465-X-2-.04 Meetings.

(1) Within 30 days after the annual appointment of new members, the Board shall meet for the purpose of organizing and transacting such business as may properly come before it.

(2) The Board also shall meet at such other times as the Chairman may designate. A majority of the members of the Board also may call a special meeting of the Board.

(3) Each member of the Board shall be given at least ten days' notice of the time, place, and purpose of any regular or special meeting, unless such notice is waived by the individual member or unless such member is present at the called meeting. The Executive Director shall cause such reasonable notice of the meetings of the Board to be given to the media as shall be appropriate under the circumstances.

Authors: David R. Boyd, Dorman Walker, Lois Woodward, Kathy Perry Brasfield

Statutory Authority: Code of Ala. 1975, §§ 34-14A-4, 34-14A-11.

HOME BUILDERS LICENSURE BOARD

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993; Amendment and Emergency Amendment filed June 20, 1994; Emergency Amendment effective June 20, 1994; Amendment effective October 28, 1994.

Amended: Filed March 7, 2008; effective April 11, 2008.

465-X-2-.05 Voting. All Board members, including the Chairman, are entitled to make or second motions. A majority of those members of the Board present and voting on any matter shall decide that matter before the Board, except that the Chairman of the Board or other Board member presiding as Chairman shall rule upon all questions of procedure and, in the event evidence is taken, on the admissibility of that evidence, consistent with the requirements of Section 13 of the Alabama Administrative Procedures Act. The Chairman shall not regularly vote as a member of the Board, except that in the event of a tie vote, the Chairman shall vote to break the tie.

Authors: David R. Boyd, Dorman Walker, Lois Woodward

Statutory Authority: Code of Ala. 1975, § 34-14A-11.

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993.

465-X-2-.06 Roster of Licensees. Beginning in 1994, the Board shall publish by March 31 of each year a complete roster of all licenses issued and renewed for that calendar year and of all counties and municipalities covered by the Act as of the date of the roster. Copies of the roster shall be made available from the Executive Director at cost, which cost shall be estimated and set from time to time by resolution of the Board; provided, however, the Executive Director shall send a free copy of the roster to the chief building official of each county and municipality covered by the Act.

Authors: David R. Boyd, Dorman Walker, Lois Woodward

Statutory Authority: Code of Ala. 1975, § 34-14A-9.

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993.

465-X-2-.07 Applicability of the Act. The Act shall apply in all counties of the state and all residential home builders within the state shall be required to be licensed by the board annually.

Authors: David R. Boyd, Dorman Walker, Lois Woodward, Kathy Perry Brasfield

Statutory Authority: Code of Ala. 1975, §§ 34-14A-6(7), 34-14A-11, 34-14A-16.

History: Original Rule and Emergency Rule filed March 22, 1993; Emergency Rule effective March 22, 1993; Permanent Rule effective June 16, 1993. **Amended:** Filed August 4, 2006; effective September 8, 2006. **Amended:** Filed August 25, 2011; effective September 29, 2011.

465-X-2-.08 Declaratory Rulings.

(1) The Board may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of any rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such ruling shall be issued provided:

(a) The Petitioner shows that the petitioner is substantially affected by the rule in question,

HOME BUILDERS LICENSURE BOARD

- (b) Sufficient facts are supplied in the request to permit the Board to make a valid determination, and
- (c) The request arises from an actual question or controversy.
- (2) A request for declaratory ruling must be in writing and must be filed on the form prescribed by the Board.
- (3) Such rulings will be made in accordance with the Alabama Administrative Procedure Act, Section 11.

Authors: David R. Boyd, Lois Woodward

Statutory Authority: Code of Ala. 1975, §§ 34-14A-11, 41-22-11.

History: Original Rule and Emergency Rule filed June 20, 1994; Emergency Rule effective June 20, 1994; Permanent Rule effective October 28, 1994.

465-X-2-.09 Advisory Opinion.

(1) The Board may, in its discretion, issue an advisory opinion to any licensee, governmental official, or entity substantially affected by a rule or statute enforceable by the Board. Board advisory opinions may address, but not necessarily be limited to, the applicability of such rule or statute to the licensee, official, or entity or to a set of facts hypothetically involving a licensee, official, or entity, or may address the meaning and scope of any order of the Board.

(2) A request for any advisory opinion must be in writing and must specifically state that it is a "request for an advisory opinion."

Authors: David R. Boyd, Lois Woodward

Statutory Authority: Code of Ala. 1975, §§ 34-14A-11, 41-22-11.

History: Original Rule and Emergency Rule filed June 20, 1994; Emergency Rule effective June 20, 1994; Permanent Rule effective October 28, 1994.