

**CHAPTER 465-X-3  
LICENSING**

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**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. Any person acting as a residential home builder as of October 15, 1993 shall have applied for a license on or before that date.

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-5, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993.

**465-X-3-.02 Filing.** License applications, annual license renewal applications, and all other applications required by these rules shall be deemed filed as of the date it is postmarked. All other submissions or documents required by these rules shall be deemed filed when received by the Executive Director. Completed applications filed at least 30 days before the next regularly scheduled Board meeting shall be considered before or at the time of that meeting; consideration of completed applications filed less than 30 days before such meeting may be delayed until the time of the next subsequent meeting of the Board. The Executive Director may reject an application that is inaccurate, incomplete, not notarized, or for which all fees due have not been paid at the time the application is filed.

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-5, 34-14A-7, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Emergency**

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**Amendment:** Filed May 31, 2011. **Amended:** Filed August 25, 2011; effective September 29, 2011.

**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;

(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;

(4) Licensed real estate agents, licensed engineers, and licensed architects operating within the scope of their respective licenses on behalf of clients;

(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;

(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;

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-6, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Amended:** Filed May 6, 2002; effective June 10, 2002. **Amended:** Filed August 4, 2006; effective September 8, 2006.

**465-X-3-.04 Licensing.**

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

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(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.

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 (in the case of any partnership) or an officer (in the case of a corporation) or a member (in the case of a member-managed limited liability company) or a manager (in the case of a manager-managed limited liability company) 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 (testing experience and ability, conducted either by the Board or a third party under contract with the Board), but must present evidence to the Board that it satisfies all other licensing requirements. The name of the partnership, corporation, or limited liability company, along with that of its designated qualifying representative, shall appear on the face of that entity's license.

2. If the designated qualifying representative of a partnership, corporation, or limited liability company ceases to be a partner or officer or member (in the case of a member-managed limited liability company) or manager (in the case of a manager-managed limited liability company) of that entity, the designated qualifying representative and the partnership, corporation, or limited liability company immediately shall so notify the Board. Unless another partner, officer, or member (in the case of a member-managed limited liability company) or manager (in the case of a manager-managed limited liability company) as the case may be, who either individually maintains a current and valid license or meets the experience and ability requirements for licensure is designated as that entity's new qualifying representative within 45 days after the previous designated qualifying representative ceases to hold that position, the license for that partnership, corporation, or limited liability company automatically shall be revoked.

(c) The extent to which a residential home builder may engage in the residential home building business depends upon the form of license held:

1. A residential home builder who is not licensed individually may engage in the residential home building business only through a licensed partnership, corporation, or limited liability company, of which the builder is an employee, partner, officer, or member.

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. A residential home builder who is the qualifying representative of an entity shall be deemed to have satisfied the experience and ability requirements for licensure, but must satisfy all other licensing requirements, including without limitation, the financial responsibility requirements, before qualifying for a license either individually or on behalf of another entity.

3. A residential home builder licensed individually may engage in the residential home building business either individually or through a licensed entity of which the individual licensee is an employee, partner, officer, or member.

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### EXAMPLES:

(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.

(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.

(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.

### (2) **Type of License.**

(a) Licenses may be issued with or without limitation.

(b) The extent to which a residential home builder may engage in the residential homebuilding business depends upon the type of license held:

1. A residential home builder who holds a current and valid residential home builders license **without limitation** may engage in the business of residential home building, as referred to in Ala. Code § 34-14A-2(10) (1975), regardless of the scope of the construction.

2. A residential home builder who holds a current and valid residential home builders license **with limitation** may only engage in the business of residential home building, as referred to in Ala. Code § 34-14A-2(10) (1975), when the scope of the construction is limited to the repair, improvement, or reimprovement, as such term is defined herein, of a residence or structure.

### EXAMPLES:

(i) Builder holds a current and valid residential home builder's license **without limitation**. Builder may contract directly with Homeowner to perform any residential construction activity including new residential construction, and repair, improvement or reimprovement to an existing residence.

(ii) Builder holds a current and valid residential home builder's license **without limitation**. Builder contracts directly with Homeowner to construct a new residence. The cost of the undertaking is \$250,000. Builder hires Framer to frame the new construction and pays him \$30,000. Framer is **not**

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**required to hold a license** issued by the Board because he did not contract directly with the homeowner to perform the construction activity, but instead is working directly for a residential home builder who holds a license without limitation and who contracted directly with the homeowner.

(iii) Framers enter into a contract directly with Homeowner to frame an addition to an existing residence. The cost of the undertaking is \$30,000. Though only one trade is being performed (framing), Framers must hold a current and valid residential home builder's license **without limitation** because the cost of the undertaking exceeds \$10,000 and the construction activity affects the structural integrity of the residence.

(iv) Foundation contractor enters into a contract directly with Homeowner to construct a foundation for a residence. The cost of the undertaking is \$15,000. Though only one trade is being performed (foundation construction), Foundation contractor must hold a current and valid residential home builder's license **without limitation** because the cost of the undertaking exceeds \$10,000 and the construction activity affects the structural integrity of the residence.

(v) Best Siding, LLC, enters into a contract directly with Homeowner to install vinyl siding on Homeowner's residence. The cost of the undertaking is \$20,000. Best Siding, LLC, must hold a residential home builder's license because the cost of the undertaking exceeds \$10,000; however, because the construction activity involves only one trade (siding installation) and it does not affect the structural integrity of the existing residence, Best Siding, LLC, may hold a residential home builders license **with limitation**.

(vi) Roofer enters into a contract directly with Homeowner to replace roofing shingles and to install siding. The cost of the undertaking is \$20,000. Roofer must hold a residential home builder's license **without limitation** because the cost of the undertaking exceeds \$10,000 and the construction activity involves more than one trade (roofing and siding installation).

(vii) Roofer enters into a contract directly with Homeowner to install a new roof, including replacing only existing damaged decking and damaged fascia. The cost of the undertaking is \$20,000. Roofer must hold a residential home builder's license because the cost of the undertaking exceeds \$10,000; however, because the construction activity involves only one trade (roof installation, including replacing damaged decking and fascia) and it does not affect the structural integrity of the residence, Roofer may hold a residential home builders license **with limitation**.

(viii) Builder enters into a contract directly with Homeowner to make repairs to a residence, including painting and replacement of sheetrock. The cost of the undertaking is \$8,500. Though the construction activity involves more than one trade (painting, and sheetrock replacement), Builder is **not required to hold a license** issued by the Board because the cost of the undertaking does not exceed \$10,000. If the cost of the undertaking had exceeded \$10,000, Builder would be required to hold a residential home builder's license **without limitation** because more than one trade is involved.

(3) **Requirements for License Without Limitation.** In order to receive a license **without limitation (unlimited license)**, a residential home builder must successfully complete the following actions:

- (a) File an accurate, complete, timely, and notarized application for license with the Board;
- (b) Pay the application fee, the Homeowners' Recovery Fund fee and any other fee required by these rules;

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(c) Demonstrate proof of financial responsibility by submitting to the Board, at the applicant's expense:

1. A credit report with business-related credit and financial information in a form satisfactory to the Board (provided directly from a credit reporting agency).

(i) The credit report shall include the business-related credit accounts information of the individual or entity to be licensed and a public records search of the individual or entity to be licensed.

(ii) In addition, a partnership's credit report shall include a public records search on the partnership and also on each partner. A partnership over a year old has the option of submitting the business-related credit accounts information on the partnership or on each partner individually.

(iii) In addition, a partnership, corporation, limited liability company, or other legal entity less than one year old may be required to provide business-related credit accounts information on the partners, corporate officers, or members individually where the partnership, corporation, or limited liability company does not have a credit history sufficient to reasonably satisfy the Board of the applicant's financial responsibility.

(iv) An applicant whose application is pending for more than 90 days (owing to a defect in the application for which the applicant is responsible) may be required to file an updated credit report (provided directly from a credit reporting agency).

2. An applicant must not have any outstanding business-related collection account(s), or foreclosure account(s), except that

(i) An applicant may have a business-related collection account(s), or foreclosure account(s) if the amount(s) of the business-related collection account(s), or foreclosure account(s) does not exceed \$500 in the aggregate. (Example: (A) one \$500 business-related collection account, or foreclosure account and no other business-related collection account, or foreclosure account, or (B) one \$250 business-related collection account, one \$150 business-related collection account, and one \$100 foreclosure account.)

(ii) An applicant with a business-related collection account(s), or foreclosure account(s), which exceeds \$500 in the aggregate must provide documentation to show that the collection account(s), or foreclosure account(s) has been paid, or must show to the Board's reasonable satisfaction that arrangements have been made to pay the account(s), including but not limited to evidence of a payment plan and history of payment, or provide the Board with a written explanation of the circumstances surrounding the business-related collection account(s), or foreclosure account(s) sufficient to reasonably satisfy the Board of the applicant's financial responsibility.

3. An applicant must not have any outstanding judgments, judgment liens, or any perfected liens, except that

(i) An applicant may have an outstanding judgment(s), judgment lien(s), or any perfected lien(s) under dispute in court, with the taxing authority, or on appeal, if the amount(s) of judgment(s), judgment lien(s), or any perfected lien(s) (under dispute in court, with the taxing authority, or on appeal) does not exceed the amount of \$1,000 in the aggregate. (Example: (A) one \$1,000 outstanding judgment, judgment

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lien, or any perfected lien under dispute in court, with the taxing authority, or on appeal and no other outstanding judgment(s), judgment lien(s), or any perfected lien(s) under dispute in court, with the taxing authority, or on appeal or (B) one \$650 outstanding judgment, judgment lien, or any perfected lien under dispute in court, with the taxing authority, or on appeal and one \$350 outstanding judgment, judgment lien, or any perfected lien under dispute in court, with the taxing authority, or on appeal.)

(ii) An applicant may have an outstanding judgment(s), judgment lien(s), or any perfected lien(s) if the amount(s) of the judgment(s), judgment lien(s), or any perfected lien(s) does not exceed \$500.00 in the aggregate. (Example: (A) one \$500 outstanding judgment, judgment lien, or any perfected lien and no other outstanding judgment(s), judgment lien(s), or any perfected lien(s) or (B) one \$350 outstanding judgment, judgment lien or any perfected lien and one \$150 outstanding judgment, judgment lien, or any perfected lien.)

(iii) Business-related judgments, judgment liens, and any perfected liens include any judgment, judgment lien or any perfected lien that may attach to real estate that an applicant takes in his/her/its name and sells, deeds, or otherwise transfers to a consumer and adversely affects the consumer's title. A certified copy of the satisfaction and release from the appropriate court(s) is sufficient evidence of satisfaction and release.

4. Disclosure of Social Security Number. All licensure applications, including new and renewal licensure applications, have a space for the disclosure of an individual's social security number.

(i) The disclosure of an individual's social security number under the Alabama Child Support Act of 1997, Act 97-447, § 30-3-194 (1997 Cum. Supp.) is **MANDATORY**. The Board requires the disclosure of the social security number to be used for the purposes under said act described therein.

(ii) The disclosure of an individual's social security number for the purpose of obtaining business-related financial and credit information and public records search is **VOLUNTARY**. The Board requests the disclosure of the social security number, pursuant to Code of Ala. 1975, § 34-14A-7(a)(4), to obtain business-related financial and credit information and a public records search in order to examine an applicant's business-related financial condition. The Board may provide, or the individual may provide, the social security numbers to the credit reporting agency for the purpose of obtaining this information. An individual who does not wish to disclose his or her social security number may provide the business-related financial and credit information and public records search in an alternate format. The alternate format shall be: provide five (5) notarized business-related credit letters from financial institutions, building suppliers, or other creditors outlining specific payment history, and a certified public records search.

5. An applicant must provide a written explanation of any pending lawsuits sufficient to reasonably satisfy the Board of the applicant's financial responsibility.

(d) Satisfy the Board that the applicant possesses such experience and ability as to be entitled to a license as a residential home builder by successfully completing the examination (testing experience and ability, conducted either by the Board or a third party under contract with the Board) required by the Board;

(e) Satisfy the Board that the applicant possesses such good character and willingness to serve the public and conserve the public health and safety as to be entitled to a license as a residential home builder; and

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(f) File any additional pertinent information required by the Board on a case-by-case basis to determine whether the applicant is qualified to receive a license.

(g) If the applicant is a corporation, satisfy the Board that the applicant is in good standing with the Alabama Department of Revenue and is either duly organized in the State of Alabama or qualified as a foreign corporation to do business in Alabama.

(h) If the applicant is a limited partnership or limited liability company, satisfy the Board that the applicant is either duly organized in the State of Alabama or qualified as a foreign limited partnership or limited liability company to do business in Alabama.

(4) **Requirements for License With Limitation.** In order to receive a license **with limitation (limited license)**, a residential home builder must successfully complete the requirements for licensure as required under Rule § 465-X-3-.04(3) with the exception of subsection (d), and must satisfy the experience and ability requirements as set forth herein.

(a) Any person acting as a residential home builder within the State of Alabama applying for a license **with limitation (limited license)** shall be deemed to have satisfied the experience and ability requirements for licensure if such person submits an application to the Board establishing any one (1) of the following:

1. That the applicant has performed a single trade, non-structural construction activity on at least one (1) residence in this state within the year prior to May 31, 2011, and that the contract price for the work exceeded \$10,000, **or**

2. That the applicant has performed a single trade, non-structural construction activity on at least five (5) residences in this state within the (5) years prior to May 31, 2011, each for a contract price exceeding \$10,000; **or**

3. That the applicant currently is licensed as a residential home builder by a jurisdiction in this state which requires an examination (testing experience and ability) for such licensure; **or**

4. That the applicant currently is licensed as a residential contractor by a jurisdiction in this state and the applicant's residential contracting business generated gross revenues of \$50,000 or more in the previous calendar year; **or**

5. That the applicant possesses sufficient building qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board. Proof that an applicant currently holds or held on or before one (1) year prior to the date the application is received by the Board, a business or occupational license, issued by a governmental instrumentality of this state, as a contractor, shall provide sufficient evidence of the applicant's building qualifications and experience.

(b) For purposes of determining whether an applicant satisfies the experience and ability requirements for a license under § 465-X-3-.04(4) of these rules, an applicant will be deemed to have performed a single trade, non-structural construction activity on a residence in this state only if:

1. The name or the trade name of the applicant (if the applicant is an individual), or the name of the applicant's qualifying representative (if the applicant is a corporation, partnership, limited liability

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company, or not-for-profit organization), appears on the building permit issued in conjunction with the single trade, non-structural construction activity referenced in § 465-X-3-.04(4)(a)1 of these rules; and

2. The applicant's qualifying representative (if the applicant is a corporation, partnership, limited liability company, or not-for-profit organization) is, or at all relevant times was, an officer of the corporation, a partner of the partnership, or a member or manager of the limited liability company, that performed the single trade, non-structural construction activity; **or**

3. The applicant submits to the Board a sworn statement signed by the owner of the residence attesting to the fact that the applicant was in fact responsible for the single trade, non-structural construction activity performed on the residence and that the cost of the construction exceeded \$10,000.

(5) **Grandfathering Provisions.** Applicants who were initially grandfathered from examination (testing experience and ability, conducted either by the Board or a third party under contract with the Board) on or before June 16, 1994, and who met the requirements under previous Code of Ala. 1975, § 34-14A-5, and who apply for a new license in a different legal capacity less than three (3) years from the date of expiration of the former license, the Board shall rely on the building qualifications met under § 34-14A-5 as sufficient evidence of applicant's experience and ability requirements for licensure; provided there are no pending disciplinary problems with the applicant.

(6) **Applicants in counties having a population of fewer than 30,000 residents.**

(a) The county commission of any county having a population of fewer than 30,000 according to the most recent decennial census may irrevocably elect to make the Act applicable to the county (hereinafter "Electing County"). Upon such election, the Electing County shall notify the Executive Director of the Board, in writing, of the election by providing a copy of the minutes of the county commission meeting which reflects the action of the county commission making applicable the Act.

(b) Any person residing in or acting as a residential home builder in an Electing County must successfully complete the requirements for licensure as required under Rule §§ 465-X-3-.04(3)(a), (b), (c), (e), (f), (g) and (h) and satisfy the experience and ability requirements required herein.

(c) Any person residing within an Electing County shall be deemed to have satisfied the experience and ability requirements for licensure if such person submits an application to the Board, within one (1) year from the date the county commission of the Electing County notifies the Board of the action of the county commission making applicable the Act, that establishes any one (1) of the following:

1. That the applicant has constructed at least one (1) residence within the year prior to the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County or at least five (5) residences within the previous five (5) years; **or**

2. That the applicant has remodeled at least one (1) residence within the year prior to the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County, or at least five (5) residences within the previous five (5) years, each for a contract price of at least \$10,000; **or**

3. That the applicant currently is licensed as a residential home builder by a jurisdiction in this state which requires an examination (testing experience and ability) for such licensure; **or**

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4. That the applicant is currently licensed as a residential remodeler by a jurisdiction in this state and that the applicant's remodeling business generated gross revenues of \$250,000 or more in the previous calendar year; **or**

5. That the applicant possesses sufficient building qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board. Proof that an applicant currently holds or held on or before one (1) year from the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County, a business or occupational license as a residential home builder in the Electing County shall provide sufficient evidence of the applicant's building qualifications and experience.

(d) Any person residing within an Electing County shall provide proof of residency in said Electing County by submitting to the Board at the time application is made:

1. documentation from the Board of Registrars of the Electing County which reflects that the applicant is a registered voter of the Electing County; **or**

2. a valid Alabama Drivers License, which reflects that the applicant is a resident of the Electing County; **or**

3. documentation which reflects that the applicant owns property in the Electing County which has been assessed for ad valorem tax in the Electing County; **or**

4. documentation which reflects that the applicant receives U.S. mail at a street, county road, or highway address within the Electing County; **or**

5. such other evidence of residency as may be accepted by the Board.

(e) Any person who does not reside within an Electing County, but who is acting as a residential homebuilder within an Electing County shall be deemed to have satisfied the experience and ability requirements for licensure if such person submits an application to the Board, within one (1) year from the date the county commission of the Electing County notifies the Board of the action of the county commission making applicable the Act, that establishes any ONE (1) of the following:

1. That the applicant has constructed at least one (1) residence within the Electing County, within the year prior to the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County, or at least five (5) residences within the Electing County within the previous five (5) years; **or**

2. That the applicant has remodeled at least one (1) residence within the Electing County, within the year prior to the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County, or at least five (5) residences within the Electing County within the previous five (5) years, each for a contract price of at least \$10,000; **or**

3. That the applicant currently is licensed as a residential home builder by a jurisdiction in this state which requires an examination (testing experience and ability) for such licensure; **or**

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4. That the applicant is currently licensed as a residential remodeler by a jurisdiction in this state and that the applicant's remodeling business generated gross revenues of \$250,000 or more in the previous calendar year; **or**

5. That the applicant possesses sufficient building qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board. Proof that an applicant currently holds or held, on or before one (1) year from the date the county commission notifies the Board that it has irrevocably elected to make the Act applicable to the Electing County, a business or occupational license as a residential home builder in the Electing County shall provide sufficient evidence of the applicant's building qualifications and experience.

(f) For purposes of determining whether an applicant satisfies the experience and ability requirements for a license under this Section 465-X-3-.04(6) of these Rules, an applicant will be deemed to have constructed or remodeled a residence only if:

1. The name or the trade name of the applicant or its qualifying representative appears on the building permit issued in conjunction with the construction or remodeling; **or**

2. The applicant or its qualifying representative is or, at all relevant times, was an officer of the corporation or a general partner of the partnership that constructed or remodeled a residence; **or**

3. The applicant submits to the Board a sworn statement signed by the owner of the residence attesting to the fact that the applicant was in fact responsible for the construction or remodeling of the residence.

(g) Any building inspector within an Electing County shall be deemed to have satisfied the building qualifications and experience requirements under Section 5(b) of the Act by submitting an application to the Board within one (1) year from the date the county commission of the Electing County notifies the Board of the action of the county commission making applicable the Act that establishes the following:

1. That the building inspector is an employee of the United States, the state of Alabama, or any municipality, county or other political subdivision thereof and, by virtue of that employment, is exempted or prohibited by law from holding a license; and

2. That the building inspector either:

(i) maintains current certification from the Southern Building Code Congress International as ONE of the following:

(I) chief building official; **or**

(II) deputy building official; **or**

(III) chief building inspector; **or**

(IV) building inspector; **or**

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(V) housing inspector; **or**

(VI) design professional; **or**

(VII) plan reviewer.

**or**

(ii) maintains current certification from the International Code Council as ONE of the following:

(I) certified building official; **or**

(II) building inspector; **or**

(III) residential building inspector; **or**

(IV) property maintenance and housing inspector; **or**

(V) building plans examiner; **or**

(VI) design professional.

**or**

(iii) possesses sufficient building qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board.

(7) **Applicants in Washington County.** Any person residing in or acting as a residential home builder in Washington County on or before May 1, 2006, shall be deemed to have satisfied the experience and ability requirements for licensure if such person submits an application to the Board by March 1, 2007, and successfully completes the requirements for licensure and satisfies the experience and ability requirements as required for applicants residing in counties having a population of fewer than 30,000 residents as set forth in Rule § 465-X-3-.04(6)(b), (c), (d), (e), (f), and (g).

(8) **Out of State License Holders.** Any applicant holding a valid license as a residential home builder issued by a jurisdiction outside the state of Alabama shall be deemed to have satisfied the experience and ability requirements for licensure only upon a determination by the Board that:

(a) the licensing requirements of the other jurisdiction are substantially similar to those of Alabama; and

(b) the other jurisdiction exempts Alabama licensees from any examination (testing experience and ability) requirements imposed on residential home builders in that jurisdiction.

(9) **Inactive Licenses.**

(a) Any licensee who desires to receive an inactive license shall make and file with the Board an accurate, complete, notarized, written application for an inactive license on a form prescribed by the Board

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prior to the expiration of the current license. The application shall be accompanied by the payment of the annual inactive license fee required by the Board and any other fees required by these rules. After the Board accepts the application, the application may be reviewed by the Board at the next scheduled Board meeting.

(b) Any building official or building inspector who desires to receive an inactive license shall make and file with the Board 30 days prior to the next meeting of the Board an accurate, complete, notarized, written application for an inactive license on a form prescribed by the Board. After the Board accepts the application, the applicant may be examined by the Board at its next Board meeting as set out in Code of Ala. 1975, § 34-14A-7(d)(2). Maintaining ICC certification as a certified building official, building inspector, residential building inspector, property maintenance and housing inspector, or building plans examiner, or maintaining a license/certification as a design professional, shall be considered to be sufficient proof of building qualifications, experience and ability to receive an inactive license.

(c) No act for which a license is required may be performed under an inactive license. In the event a person holding a current inactive license applies for a license, he or she may rely upon his or her inactive license as evidence of the experience and ability requirements for licensure under subdivisions (1) and (2) of subsection (a) of Code of Ala. 1975, § 34-14A-7 and subparagraph (d) of paragraph (2) of this regulation.

### (10) **Applicants Holding Expired Licenses Less Than Three Years Old.**

(a) Any licensee who desires to reactivate an expired license less than three years old shall make and file with the Board 30 days prior to the next meeting of the Board an accurate and complete written application on a form prescribed by the Board to reactivate the expired license. The application shall be accompanied by the application fee, the Homeowners' Recovery Fund fee, and any other fees required by these rules. After the Board accepts the application, the applicant may be reviewed by the Board at the next scheduled Board meeting. An applicant holding an expired license who files such an application within three years from the date of expiration of the license shall be deemed to have satisfied the experience and ability requirements for licensure provided there are no pending disciplinary problems with the applicant and all other licensing requirements have been met.

(b) For an individual applicant to be considered an applicant holding an expired license, the applicant must hold an expired license in his individual capacity. For a partnership, corporation, or limited liability company applicant to be considered an applicant holding an expired license, the applicant must hold an expired partnership, corporation, or limited liability license with the same designated qualifying representative as the applicant applying for reactivation.

(c) In addition, applicants who have been denied a license, or whose license has been revoked or suspended, or who have pending disciplinary problems, are not considered applicants holding an expired license.

(11) **Applicants Holding a Denied License Less Than Three Years Old.** Any applicant whose license has been denied and who desires to receive a new license shall make and file with the Board 30 days prior to the next meeting of the Board an accurate, complete, notarized written application on a form prescribed by the Board with the Executive Director and satisfy the criteria set forth in § 465-X-3-.04(3)(b), (c), (e), (f), (g) and (h) as applicable, or § 465-X-3-.04(4) as applicable. The application shall be accompanied by the application fee, the recovery fund fee, and any other fees required by these rules. After the Board accepts the application, the applicant may be reviewed by the Board at the next scheduled Board

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meeting. An applicant whose license has been denied and who files such an application and is issued a new license within three years from the year of denial of the previous license shall be deemed to have satisfied the experience and ability requirements for licensure.

**Authors:** David R. Boyd, Dorman Walker, Lois Woodward, Anna C. Northington, Beth Acker, Kathy Perry Brasfield.

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-5, 34-14A-6, 34-14A-7, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Amended:** Filed February 11 1994; effective March 18, 1994. **Emergency Amendment:** Filed June 20, 1994. **Amended:** Filed September 23, 1994; effective October 28, 1994. **Amended:** Filed April 2, 1997; effective May 7, 1997. Amendment and Emergency Amendment filed October 1, 1997; Emergency Amendment effective October 1, 1997. Amendment and Emergency Amendment filed October 27, 1997; Emergency Amendment effective October 27, 1997. Amendment and Emergency Amendment filed October 27, 1997; Emergency Amendment effective October 27, 1997. Amendment filed November 12, 1997. **Amended:** Filed January 30, 1998; effective March 4, 1998. **Amended:** Filed September 4, 1998; effective October 9, 1998. **Amended:** Filed June 4, 1999; effective July 9, 1999. **Amended:** Filed May 6, 2002; effective June 10, 2002. **Amended:** Filed April 2, 2004; effective May 7, 2004. **Amended:** Filed June 4, 2004; effective July 10, 2004. **Amended:** Filed November 4, 2004; effective December 9, 2004. **Amended:** Filed December 9, 2004; effective January 13, 2005. **Amended:** Filed February 7, 2005; effective March 14, 2005. **Amended:** Filed August 4, 2006; effective September 8, 2006. **Amended:** Filed October 6, 2008; effective November 10, 2008. **Amended:** Filed August 11, 2010; effective September 15, 2010. **Emergency Amendment Filed:** May 31, 2011. **Amended:** Filed August 25, 2011; effective September 29, 2011.

**465-X-3-.05** [Repealed effective June 20, 1994]

**465-X-3-.06** **Annual License Renewal, Consequence Of Failure To Renew.**

- (1) A license is valid only during the calendar year indicated on the license. At the end of that calendar year, the license expires unless it is timely renewed by the licensee.
- (2) To renew a license **without limitation**, the licensee must timely file a complete and accurate annual license renewal application with the Executive Director, and satisfy the criteria set forth in § 465-X-3-.04(3)(b), (c), (e), (f), (g), and (h), as applicable. To renew a license **with limitation**, the licensee must timely file a complete and accurate annual license renewal application with the Executive Director, and satisfy the criteria set forth in § 465-X-3-.04(4) as applicable. If a licensee changes its address or telephone number during the license year, the licensee promptly must notify the Board of the new address and new telephone number. Annual license renewal applications must be filed by November 30 of the year preceding the year for which the license is to be renewed. Any renewal applications postmarked on December 1 or thereafter will be considered late.
- (3) To renew an inactive license, the inactive licensee must timely file a complete and accurate annual inactive license renewal application with the Executive Director, and satisfy the criteria set forth in § 465-X-3-.04(9)(a), (b), and (c), as applicable. If an inactive licensee changes its address or telephone number during the license year the inactive licensee promptly must notify the Board of the new address and new telephone number. Annual inactive license renewal applications must be filed by November 30 of the year preceding the year for which the inactive license is to be renewed. Any inactive renewal applications postmarked on December 1 or thereafter will be considered late.

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(4) A license holder who fails to file the annual license renewal application, or the annual inactive license renewal application, by December 31 of the calendar year for which the license was issued shall no longer be licensed as a residential home builder, after December 31 of the calendar year for which the license was issued.

**Authors:** David R. Boyd, Dorman Walker, Lois Woodward, Anna C. Northington, Beth Acker, Kathy Perry Brasfield

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-5, 34-14A-7.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Emergency**

**Amendment:** Filed June 20, 1994. **Amended:** Filed September 23, 1994; effective October 28, 1994.

**Amended:** Filed April 2, 1997; effective May 7, 1997. **Amendment and Emergency Amendment** filed October 1, 1997; **Emergency Amendment** effective October 1, 1997. **Amended:** Filed January 28, 1998; effective March 4, 1998. **Amended:** Filed August 4, 1998; effective September 8, 1998. **Amended:** Filed November 2, 2001; effective December 7, 2001. **Amended:** Filed May 6, 2002; effective June 10, 2002. **Amended:** Filed June 4, 2004; effective July 10, 2004. **Amended:** Filed November 4, 2004; effective December 9, 2004. **Emergency Amendment:** Filed May 31, 2011. **Amended:** Filed August 25, 2011; effective September 29, 2011.

**465-X-3-.07** [Repealed effective October 1, 1997]

**465-X-3-.08** **Replacement Licenses.** The Board shall issue a replacement license, upon application, to a licensee who shows by notarized statement that:

(1) the licensee's current license has been stolen, taken, lost, destroyed, defaced, or

(2) the licensee's name has been changed by marriage or court order, if the licensee is an individual, or by changing the name of the sole proprietorship, partnership, or corporation, if the license is issued in the name of such an entity. Where such a name change occurs, the license issued under the licensee's former name shall expire 60 days after the name change occurs, unless within that 60-day period the licensee obtains a replacement license bearing the licensee's correct name. When the replacement license is issued to accommodate a name change, the originally issued license must be returned to the Board as a condition of the issuance of the new license.

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-1, 34-14A-5, 34-14A-7, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Emergency**

**Amendment:** Filed June 20, 1994. **Amended:** Filed September 23, 1994; effective October 28, 1994.

**465-X-3-.09** **Examinations.** In examining an applicant, the Board shall consider the applicant's experience, ability, character, business-related financial condition, ability and willingness to serve the public and to conserve the public's health and safety, and any other pertinent information needed for the Board to determine whether the applicant is qualified to receive a license as a residential home builder. The Board may rely on oral and written examinations (testing experience and ability, conducted either by the Board or a third party under contract with the Board), its review of the application and related materials filed by the applicant, any references or information regarding the applicant or its qualifying representatives, or any combination thereof in determining whether to issue a license. Any written examinations (testing experience and ability, conducted either by the Board or a third party under contract with the Board) required

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for a license as a residential home builder shall be given at least quarterly at a place or places designated by the Board. An applicant has three (3) years from the year he or she receives a passing score on any written examination (testing experience and ability, conducted either by the Board or a third party under contract with the Board) within which to file a written application for license with the Board. At the expiration of the three (3) year period, if an applicant has not filed an application for and obtained a license, the applicant shall be required to retake and receive a passing score on any written examination (testing experience and ability, conducted either by the Board or a third party under contract with the Board) before a license will be issued.

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14-7, 34-14-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993. **Emergency**

**Amendment:** Filed June 20, 1994. **Amended:** Filed September 23, 1994; effective October 28, 1994. Amendment and Emergency Amendment filed October 1, 1997; Emergency Amendment effective October 1, 1997. **Amended:** Filed January 28, 1998; effective March 4, 1998. **Amended:** Filed June 4, 1999; effective July 9, 1999.

### **465-X-3-.10 Denial Of License.**

(1) Grounds for Denial. The following shall constitute grounds on which the Board may deny an application for a license:

(a) Applicant's failure to meet any requirement or standard established by the Act or the rules adopted by the Board.

(b) False representations of facts on an application for licensure or renewal thereof.

(c) Applicant's having another person appear in the applicant's place for the licensing exam.

(d) Applicant's following a course of conduct that would be grounds for discipline under the Act or the rules adopted by the Board.

(e) The revocation, suspension or probationary status of the applicant's license in another state.

(f) Disciplinary action pending against the applicant in another state.

(g) Any other reasons authorized by law.

(2) Notice of denial. The Board shall give any applicant whose application for licensure or renewal is denied written notice specifying in detail the reason for the denial.

(3) Reexamination and Reconsideration.

(a) An applicant denied a license shall be given an opportunity to be reexamined after filing a new application and paying an additional application fee; provided, however, the Board in its discretion may waive any application requirements regarding the filing of any additional forms or the payment of any additional fees.

(b) An applicant denied a license shall be given an opportunity to be reexamined after filing a new

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application and paying an additional application fee; provided, however, any applicant denied a license shall not be required to sit for and pass any written examination (testing experience and ability conducted either by the Board or a third party under contract with the Board) if application for a new license is made and a new license is issued within three years from the year the previous license was denied and the applicant has met all other requirements for licensure.

(c) An applicant who claims to have been wrongfully denied a license may request reconsideration of the Board's decision at any time within 45 days after the date of the Board's notice of denial. This request for reconsideration must be in writing and must include evidence that the Board relied on inaccurate or incomplete information in denying the applicant a license; evidence of rehabilitation or the elimination or cure of the grounds on which the denial was based; or other explanatory evidence bearing on the applicant's record. In connection with this request for reconsideration, the applicant shall be entitled to appear before the Board, or a committee thereof, in order to present the request. Applicants requesting reconsideration of denial shall be notified of the opportunity to appear before the Board by letter, mailed certified mail, return receipt requested, to the most recent address on file with the Board at least 15 days prior to the scheduled date of the hearing. In the event an applicant receives less than 15 days notice as described herein, the Board may grant a continuance until the next hearing date.

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

**Statutory Authority:** Code of Ala. 1975, §§ 34-14A-5, 34-14A-7, 34-14A-8, 34-14A-11.

**History:** Filed March 22, 1993. **New Rule:** Filed May 12, 1993, effective June 16, 1993.

**Amended:** Filed September 4, 1998; effective October 9, 1998. **Amended:** Filed June 4, 1999; effective July 9, 1999.

**465-X-3-.11** [Repealed effective January 13, 2012]

**465-X-3-.12** [Repealed effective January 13, 2012]

**465-X-3-.13** [Repealed effective January 13, 2012]

**465-X-3-.14** [Repealed effective January 13, 2012]