HOME BUILDERS LICENSURE BOARD
ADMINISTRATIVE CODE

CHAPTER 465-X-1
DEFINITIONS

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465-X-1-.01 Definition Of Terms

465-X-1-.01 Definition Of Terms.

(1) Code of Ala. 1975, §34-14A-2, provides for definitions of the following terms: Advisory Council, Board, Cost of the Undertaking, Homeowner, Improvement, Inactive License, License, Licensee, Person, Qualifying Representative, Residence, Residential Home Builder, Residential Roofer, Structure, and Transaction. Residential remodelers are included within the definition of "Residential Home Builder."

(2) Act. The term "Act" as used in these rules shall mean Title 34, Chapter 14A of the Code of Ala. 1975 regulating the home building and home improvement industries.

(3) Agricultural Building. A building, not meeting the definition of residence or structure within the Act, and used for raising, harvesting, and selling crops or for the feeding, breeding, management, raising, sale of, or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees, and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof pursuant to Code of Ala. 1975, §40-8-1(b)(1).

(4) Alabama Administrative Procedure Act. The term “Alabama Administrative Procedure Act” refers to the act codified at Title 41, Chapter 22 of the Code of Ala. 1975.

(5) Gross Negligence. The term "gross negligence" as used in Code of Ala. 1975, §34-14A-8, shall mean engaging in the business of residential home building by a licensee (including by its duly authorized agent), characterized by that licensee’s reckless disregard for the rights, safety, or welfare of homeowners, which could result in injury or damage to life or property or financial loss.

(6) Homeowners' Recovery Fund. The term "Homeowners' Recovery Fund" as used in these rules shall mean that special fund

deposited into the State Treasury and held by the Board in trust for the purpose of carrying out the provisions of Section 15 of the Act.

(7) Incompetence. The term "incompetence" as used in Code of Ala. 1975, §34-14A-8, shall mean engaging in the business of residential home building by a licensee (including by its duly authorized agent) who fails to perform in a reasonable manner under the standard used in that community for residential home building, including but not limited to the proper supervision of subcontractors.

(8) Misconduct. The term "misconduct" as used in Code of Ala. 1975, §34-14A-8, shall mean engaging in the business of residential home building by a licensee who intentionally makes any assertions or representations which are fraudulent, deceitful, or misleading to a homeowner or otherwise knowingly or intentionally engages in conduct which is fraudulent, deceitful or misleading to a homeowner. Misconduct of a licensee also includes but is not limited to knowingly or intentionally falsely representing itself as the residential home builder in charge of residential construction, including but not limited to, purchasing building permits for unlicensed builders, or otherwise assisting unlicensed builders in the business of residential home building through the use of its license.

(9) Repair, improvement, or reimprovement. The term “repair, improvement, or reimprovement” as used in Code of Ala. 1975, §34-14A-2(12) shall mean engaging in the business of residential homebuilding by contracting directly with a homeowner to perform construction on a residence or structure, whether attached or detached from a residence or structure, when the cost of the undertaking exceeds $10,000, for repair, improvement, or reimprovement, or when the cost of the undertaking exceeds $2,500 for repair, improvement, or reimprovement of a residential roof.

(a) When the construction, attached or detached, does not affect the structural integrity of a residence or structure, or does not involve more than one trade, a limited license is required, except that residential roofing requires a license limited to roofing.

(b) When the construction affects the structural integrity of the residence or structure, an unlimited license is required.

(c) When the construction, attached or detached from the residence or structure involves more than one trade, an unlimited license is required.

(d) Repair, improvement, or reimprovement does not include construction activities performed by persons who are otherwise licensed and regulated by the State of Alabama and who are operating within the scope of their respective licenses on

behalf of clients. The term "improvement" is defined by Code of Ala. 1975, §34-14A-2(5).

(10) Residential Roofing. The term "residential roofing" as used in these rules shall mean installing products or repairing surfaces on the external upper covering of a residence or structure that seals, waterproofs, or weatherproofs the residence or the structure, when the cost of the undertaking exceeds $2,500.

(11) Single Lot. The term "single lot" as used in Code of Ala. 1975, §34-14A-2(14) and as used in these rules shall mean:

(a) A single lot as prescribed by local zoning ordinances or building codes.

(b) Builders who construct or offer to construct more than four (4) residences on a single lot, including site-built homes, condominiums, duplexes, or multi-unit residential buildings consisting of more than four (4) residential units are subject to the jurisdiction of the Alabama Licensing Board for General Contractors.

(12) Violation of the Act. The term "violation of the Act" as used in these rules shall mean any of the following:

(a) That a licensee:

1. has committed fraud or deceit in obtaining a license,

2. is guilty of gross negligence, incompetence, or misconduct in the practice of residential home building,

3. has failed to maintain a valid license,

4. has performed residential construction activity outside or beyond the scope of the license issued,

5. has violated any applicable building law or code adopted by a county or municipality pursuant to Section 12 of the Act,

6. has failed to repay any amount paid out of the Homeowners' Recovery Fund on behalf of the licensee,

7. has failed to disclose to a homeowner the status of its insurance in compliance with Code of Ala. 1975, §34-14A-19,

8. has failed to disclose compliance with a program designed to enhance the resiliency of the structure beyond the requirements of the applicable building codes in writing prior to the commencement of construction

pursuant to the requirements of Code of Ala. 1975, §34-14A-7(g),

9. has failed to notify the board within 10 days after notice of the institution of a felony criminal prosecution against the licensee or the designated qualifying representative of the licensee pursuant to the requirements of Code of Ala. 1975, §34-14A-7(e)(1),

10. has failed to notify the board within 10 days after notice of any criminal verdict rendered against the licensee or the designated qualifying representative of the licensee, or that a pending criminal action has been dismissed pursuant to the requirements of Code of Ala. 1975, §34-14A-7(e)(2),

11. has failed to use a valid written contract including offer and acceptance indicated by the signing of all parties, including display of active valid license number issued by the Board,

12. has used the Home Builders Licensure Board logo for commercial purposes as set forth in Code of Ala. 1975, §13A-10-13,

13. has failed to display the valid active license number issued by the board while advertising as defined in Code of Ala. 1975, Code § 34-14A-2(1) pursuant to Alabama Administrative Code, Rule 465-X-1-.01(18); or

(b) That a residential home builder has failed to procure a valid license.

(13) Continuing Education Course: The term continuing education course shall mean a training program that complies with the procedures, standards, and minimum requirements established for continuing education and has been approved by the Board.

(14) Continuing Education Credit: The term continuing education credit shall mean 50-minute credit hour of instruction.

(15) Continuing Education Instructor: The term continuing education instructor shall mean an individual that complies with the procedures, standards, and minimum requirements established for continuing education and who has submitted a training program to the Board for continuing education credit review and has been approved by the Board.

(16) Continuing Education Provider: The term continuing education provider shall mean an institution or organization that complies with the procedures, standards and minimum requirements established for continuing education and who has submitted a

training program to the board for continuing education credit review and has been approved by the Board.

(17) Residential Building Code: The term "residential building code" as used in these rules and pursuant to the requirements in Code of Ala. 1975, §34-14A-12, shall mean the Alabama Residential Building Code as defined in Code of Ala. 1975, § 34-14A-2(2) (1975), or the Applicable Residential Building Code as defined in Code of Ala. 1975, § 34-14A-2(3) and as minimum standard utilized in Board investigations for determining probable cause if a licensee, residential home builder, residential roofer, or any other person within the Board's jurisdiction has violated the Act.

(a) In those local jurisdictions (county, municipality, or otherwise) with an adopted building law or code, the "residential building code" shall be the adopted building code within the local jurisdiction.

(b) In those local jurisdictions (county, municipality, or otherwise) without an adopted building law or code, the "residential building code" shall be the Residential Building Code as recommended by the Alabama Residential Building Code Advisory Council and adopted and ratified by the Board.

(18) Scope of Advertising: Scope of advertising covers any actions, materials, marketing, promotions or solicitations within the definition of advertising, Ala Code § 34-14A-2(1) (1975), by a licensee or a residential home builder that would demonstrate to the general public and consumers the services contemplated within the definition of a Residential Home Builder, Code of Ala. 1975, Code § 34-14A-2(16), and requires the display or recording of the valid, active license number issued by the Board.

a. In print, television, and/or other visual advertisements, display of the license number as "HBLB #: (the valid, active license number issued by the Board)" or "Alabama HBLB #: (the valid, active license number issued by the Board)" or some equivalent thereof is sufficient.

b. In radio advertisements, narration of the license number as "HBLB #: (the valid, active license number issued by the Board)" or "Alabama HBLB #: (the valid, active license number issued by the Board)" or some equivalent thereof is sufficient.

c. Social media pages, posts and websites, the valid, active license number issued by the Board should be easily accessible for the consumers and the general public to find within the page or post.

d. There is no requirement on font size or location of the placement of the license number, so long as it is easily accessible for consumers and the general public to find.

e. For vehicle decals, signage and wraps, follow (a).

f. Local jurisdictions may also have ordinances governing what must be displayed with advertising and whether a particular type of advertising is allowed.

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