APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 303

Department or Agency: Alabama State Board of Electrical Contractors

Rule No.: 303-X-2-.10

Rule Title: Discipline Of A License

Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?	Yes
Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?	No
Is there another, less restrictive method of regulation available that could adequately protect the public?	No
Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved?	No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule?	NA
Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?	Yes
Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?	No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer: *Keith E. Warren*

Keith E. Warren

REC'D & FILED

Date: Tuesday, December 19, 2023

DEC 19, 2023

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA STATE BOARD OF ELECTRICAL CONTRACTORS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Electrical Contractors

RULE NO. & TITLE: 303-X-2-.10 Discipline Of A License

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:
The Board proposes to update the disciplinary of a license rule to comply with Section 41-22-12.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
Written comments will be received by the Board until 4:00 p.m. on Friday, February 2, 2024. Comments should be directed to Keith E. Warren, Executive Director, 2777 Zelda Road, Montgomery, AL 36106 or by email at keith@alstateboard.com.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, February 2, 2024

CONTACT PERSON AT AGENCY:
Keith E. Warren, Executive Director
2777 Zelda Road, Montgomery, AL 36106
334-420-7232;
keith@alstateboard.com

Keith E. Warren

Keith E. Warren

(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

303-X-2-.10 Discipline Of A License.

(1) When charges are made against a licensed electrical contractor~~ or journeyman electrician which would justify suspension or revocation, if proven, notice of the specific nature of the charges and the time and place of a hearing will be served upon the accused by registered mail and addressed to the last known address on record, not less than twenty-one (21) days before the date fixed for such hearing~~, journeyman electrician, or an unlicensed person practicing without a license, which would justify suspension, revocation, or a Cease and Desist Order, reasonable notice in writing of the specific nature of the charges and the time and place of a hearing shall be issued by the Board and delivered either by personal service, as in civil actions, by certified mail, return receipt requested, or first class mail, postage prepaid, to be effective upon the deposit of the notice in the mail. Delivery of the notice referred to in this subsection shall constitute the commencement of the contested case proceeding. Written complaints against a licensed electrical contractor, a journeyman electrician, or a non-licensee must be filed within one (1) year of the act or work forming the basis of the complaint.

(2) The Board may suspend, revoke, or refuse to issue or renew a license after notice and opportunity for the applicant/licensee to be heard, upon proof of any of the following actions:

(a) violation of any provision of Code of Ala. 1975, §§34-36-1, et seq.;

(b) attempting to procure a license to practice electrical contracting or to work as a master electrician or journeyman electrician by bribery or fraudulent misrepresentations;

(c) being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of electrical contracting, working as a journeyman electrician , or the ability to practice electrical contracting or to work as a master electrician or journeyman electrician;

(d) making or filing a report or record which the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed electrical contractor, master electrician, or journeyman electrician;

(e) being found guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of electrical contracting or working as a master electrician or journeyman electrician;

(f) practicing on a revoked, suspended, or inactive license;

(g) aiding or abetting any person to evade any provision of this chapter;

(h) knowingly combining or conspiring with any person by allowing one's license to be used by any unlicensed person with the intent to evade this chapter. When a licensee allows his or her license to be used by any firm, partnership, association, or corporation without having any active participation in the operations or management of the firm, partnership, association, or corporation, such act constitutes prima facie evidence of an intent to evade this chapter. If an electrical contractor files a request with the Board to transfer his or her license more than twice in a calendar year, then a hearing shall be set before the Board with the burden of proof being on the licensee to prove that the intent of this chapter is not being circumvented or obstructed;

(i) acting in the capacity of an electrical contractor under any license issued under this act except in the name of the licensee as set forth on the issued license;

(j) having a license to practice electrical contracting or journeyman electrician revoked, suspended, or otherwise disciplined, including the denial of licensure by the licensing authority of another municipality, county, state, territory, or country.

(3) In addition to the action on the status of the license, the Board may impose an administrative fine of not more than $5,000 (five thousand dollars) for each violation.

(4) If the Board finds that a person, corporation, or business entity is engaged in performing electrical contracting covered by this chapter without having obtained a proper license, the Board may do any of the following:

(a) deny an application for licensure;

(b) impose an administrative fine of not more than five thousand dollars ($5,000) per violation;

(c) issue a cease and desist order;

(d) petition the circuit court of the county where the act occurred to enforce the cease and desist order or collect the assessed fine, or both.

(5) Any person aggrieved by an adverse action taken by the Board may appeal the adverse action to the circuit court of the county in which the adverse action occurred in accordance with the Alabama Administrative Procedures Act, Code of Ala.1975, §§41-22-1, et seq.

Author: Hendon B. Coody

Statutory Authority: Code of Ala. 1975, §§34-36-6, et seq.

History: Filed March 7, 1986. **Amended:** Filed June 10, 1988. **Repealed and New Rule:** Filed February 11, 2011; effective March 18, 2011. **Amended:** Filed December 19, 2023;

303-X-2-.10 Discipline Of A License.

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(b) attempting to procure a license to practice electrical contracting or to work as a master electrician or journeyman electrician by bribery or fraudulent misrepresentations;

(c) being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of electrical contracting, working as a journeyman electrician , or the ability to practice electrical contracting or to work as a master electrician or journeyman electrician;

(d) making or filing a report or record which the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed electrical contractor, master electrician, or journeyman electrician;

(e) being found guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of electrical contracting or working as a master electrician or journeyman electrician;

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