Home Builders Licensure Board

Functional Analysis
&
Records Disposition Authority

Revision
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State Records Commission
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Functional and Organizational Analysis of the Home Builders Licensure Board

Sources of Information

- Representatives of the Home Builders Licensure Board
- Code of Alabama 1975 § 34-14A-1 through 34-14A-18
- Code of Alabama 1975 § 41-20-1 through 41-20-16, § 41-22-1 through 41-22-27
- Alabama Administrative Code, Chapters 465-X-1 through 465-X-7
- Alabama Act 1935-297
- Alabama Acts 1945-128 and 1945-290
- Alabama Act 1992-608
- Alabama Act 2006-105
- Alabama Acts 2018-143 and 2018-398
- Archives Division, State Agency Files (1985-ongoing)
- Home Builders Licensure Board Audit Reports
- Home Builders Licensure Board Agency Newsletters
- Home Builders Licensure Board Agency Website

Historical Context

For most of human history, home owners built their own homes. American colonists built dugouts, wigwams, or simple one- or two-room wooden structures. The production of dimensional lumber in the mid-nineteenth century made more complex multiple-room and multiple-floor residential structures possible. In the wake of the Great Depression, the National Housing Act of 1934 created the Federal Housing Administration to develop a minimum building code and to insure mortgage loans. The new building code promoted standardization of building materials and methods. State and local home building licensure and registration became more common throughout the twentieth century as Americans built larger and more expensive homes.

In Alabama, the regulation of general contracting was a precursor to the regulation of home building. The profession of general contracting has been regulated since the Alabama Act 1935-297 established the State Licensing Board for General Contractors. A general contractor is defined as “one who...engage[s] in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement in the State of Alabama where the cost of the undertaking is fifty thousand dollars ($50,000) or more” (Code of Alabama 1975 § 34-8-1).
Moreover, Alabama Acts 1945-128 and 1945-290 created the Alabama Building Commission to “promulgate and enforce a code of minimum building standards for state building and construction, school houses, hotels, and moving picture theaters” (Code of Alabama 1975 § 41-9-140). Building codes provided legally-mandated requirements for general contractors, architects, and builders.

The profession of home building remained unregulated in the state until 1992, when the Alabama Act 1992-608 established the Home Builders Licensure Law and the Home Builders Licensure Board, hereinafter referred to as the “Board.” The professions of general contracting and home building are related but distinct. General contractors typically contract for commercial and industrial construction. While general contractors often orchestrate and manage subcontractors who work in independent areas, home builders may work independently or with a crew to complete entire housing projects or work in one specialty such as foundations, walls, or flooring. Anyone holding a General Contractors license issued prior to the passing of the Alabama Act 1992-608 may engage in residential construction. Anyone holding a General Contractors License issued after that legislation (license number 18908 or higher) must hold a Home Builders License to perform residential construction.

A residential home builder is defined as “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)” (Code of Alabama 1975 § 34-14A-2[11]).

Initially, counties having populations of less than 30,000 were exempt from the Home Builders Licensure Board’s jurisdiction. Those counties could elect to be covered by the provisions of the Law. The Alabama Act 2006-105 removed these exemptions and required licensing for home builders in all counties regardless of the population.

Upon request from both the public and state government officials to license roofers in addition to home builders, the Alabama Act 2018-143 expanded the definition of residential home builder to include “A residential roofer when the cost of the undertaking exceeds two thousand five hundred dollars ($2,500),” thereby broadening the regulatory scope of the Board to include residential roofers (Code of Alabama 1975 § 34-14A-2[11]). The Board began issuing roofers licenses on January 1, 2019. The Alabama Act 2018-143 also provided for the election of Board officers and employment of an executive director and deputy director. These provisions were previously outlined only in the Alabama Administrative Code. Further, the Alabama Act 2018-143 provided for the executive director to hire staff, authorized the Board to require insurance, and increased the maximum fine for violations.

Agency Organization
The Board is composed of nine members, including at least one member from each of the state’s congressional districts. The governing body of the Home Builders Association of Alabama (HBAA) provides a list of three qualified individuals for each appointment. The Governor, the Lieutenant Governor, and the Speaker of the House of Representatives each appoint three members. Seven of the nine members must be residential home builders with at least five years of building experience. One member must be a building inspector or building official of a city, county, or state entity. The final member must be a consumer in the general public not affiliated with a licensed home builder. Each member must be a citizen of the state, and the membership of the Board must be inclusive and reflect the diversity of the state (Code of Alabama 1975 § 34-14A-3). Appointments to the Board are for three-year terms.

Members of the Board may be compensated in an amount not to exceed three hundred fifty dollars ($350) per day, not to exceed 15 days per year, for attending meetings of the Board or its committees. In addition, members may be reimbursed for such necessary travel expenses as are paid to state employees. The Board elects annually from its members a chairman, vice chairman, and secretary/treasurer. The Board appoints an executive director and other staff members (Code of Alabama 1975 § 34-14A-4).

The Board meets on a quarterly basis at minimum and at such time as the chair may designate, usually on the fourth Thursday of every month. Four members constitute a quorum. A majority of the members of the Board may call a special meeting.

**Agency Function and Subfunctions**

The mandated function of the Home Builders Licensure Board is to screen and license applicants who engage in residential construction and remodeling in the state of Alabama, where the cost of the construction or remodeling exceeds $10,000. The Board also screens and licenses applicants who engage in residential roofing in the state of Alabama, where the cost of the undertaking exceeds $2,500. The Board is one of the agencies primarily involved in the carrying out the Regulatory function of Alabama government as described in the “Functional Analysis of Alabama Government.”

In the performance of its mandated functions, the Board may engage in the following subfunctions:

- **Promulgating Rules and Regulations.** The Code of Alabama 1975 § 34-14A-11 authorizes the Board to promulgate rules and regulations necessary for the administration of the Home Builders Licensure Law as codified in Code of Alabama 1975 § 34-14A. This subfunction encompasses activities pertaining to the establishment and promulgation of rules and regulations, including due process, licensure procedures, and other official policies needed by the Board for carrying out its duties and responsibilities. The rulemaking powers of the Board are subject to the Alabama Administrative Procedures Act as codified in the Code of Alabama 1975 § 41-22-1 through 41-22-27.

- **Licensing.** The Code of Alabama 1975 § 34-14A-5 requires all residential home builders to be licensed by the Board annually unless otherwise exempted.
The Code of Alabama 1975 § 34-14A-6 sets out the following seven exemptions to licensure by the Board: “(1) any employee of a licensee who does not hold himself or herself out for hire or engage in residential home building, except as such employee of a licensee”; “(2) an authorized employee of the United States, the State of Alabama, or any municipality, county, or other political subdivision, if the employee does not hold himself or herself out for hire or otherwise engage in residential home building except in accordance with his or her employment”; “(3) general contractors holding a current and valid license, issued prior to January 1, 1992”; “(4) real estate licensees, licensed engineers, and licensed architects operating within the scope of their respective licenses on behalf of clients”; “(5) owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale”; “(6) mobile homes or to 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 “(7) agricultural buildings, except for any residence contained therein.”

The Code of Alabama 1975 § 34-14A-5(a)(2) gives the Board the authority to issue more than one type of license. The Board issues the following types of licenses for persons in Alabama: unlimited, limited, and roofers.

An unlimited license permits the licensee to perform work involving more than one trade or work that impacts the structural integrity of the house, such as framing and foundation repair. No act for which an unlimited license is required may be performed under a limited license or a roofers license.

A limited license permits the licensee to practice a single trade such as siding, flooring, painting, sheetrock, drywall, and any other work that does not impact the structural integrity of the house. The limited license does not permit the licensee to practice roofing.

A roofers license permits the licensee to install products or repair surfaces on the external upper covering of the residence or structure that seals, waterproofs, or weatherproofs the residence or structure. An unlimited license also permits the licensee to practice roofing.

Licensees may not use both a limited license and a roofers license on a single structure. For example, a licensee cannot use a roofers license to perform residential roofing and then use a limited license to install flooring on the same structure.

The Code of Alabama 1975 § 34-14A-7 charges the Board with examining new and renewal applicants for licensure. Qualifications for licensure include experience, ability, character, business-related financial condition, ability and willingness to serve the public and conserve the public health and safety, and any other pertinent information the Board may require.
Following the submission of an application and supporting documents, applicants for an unlimited license are required to pass a written examination testing experience and ability, conducted by a third party under contract with the Board.

Applicants for a limited license or roofers license are required to satisfy the experience and ability requirement as set forth in Alabama Administrative Code, 465-X-3.04(4) and 465-X-3.04(5), respectively. Unlike the limited license, the roofers license does not require a credit report upon application and annual renewal. Instead, licensed roofers must maintain bond coverage of $10,000 per license year.

The Alabama Administrative Code 465-X-3-.04 regulates the practice of home building by partnerships, corporations, limited liability companies, and non-profit organizations. These organizations may apply for all three types of licenses (limited, unlimited, and roofers). They must designate a qualifying representative who must satisfy the experience and ability requirements for licensure. The Designated Qualifying Representative (DQR) must be a general partner if the applicant is a partnership, an officer if the applicant is a corporation, a member if the applicant is a member-managed limited liability company, or a manager if the applicant is a manager-managed limited liability company.

A licensee may keep his or her license in an inactive status. No act for which a license is required may be performed under an inactive license. A licensee whose license expires may reactivate the expired license within a three-year period without having to satisfy the experience and ability requirement.

- **Compensating.** The Code of Alabama 1975 § 34-14A-15 authorizes the Board to establish and maintain a special revenue fund, known as the Homeowners’ Recovery Fund, to provide relief to aggrieved homeowners who sustain actual economic damages as the direct result of licensed home builders’ conduct in violation of the Board’s enabling statute or administrative rules. The Board may collect up to sixty dollars ($60) annually for the fund from each unlimited and limited license holder. The Board deposits the Recovery Fund fees into the state treasury. The Recovery Fund is available only to the original homeowner, that is, the original owner-occupant of the property at the time of the violation.

  The Board does not collect Homeowners’ Recovery Fund fees from licensed roofers. Instead, licensed roofers must maintain bond coverage of $10,000 per license year naming the Board as the obligee. Homeowners cannot make a claim on the bond; the Board alone can make a claim on behalf of aggrieved homeowners.

- **Investigating Complaints and Violations.** The Code of Alabama 1975 § 34-14A-8 authorizes the Board to initiate investigations either on its own motion or upon the written complaint of an original homeowner.

  Complaints may be filed both against licensees of the Board and against unlicensed individuals. Complaints are to be filed in writing and must include detailed evidence of a violation. An investigative committee consisting of a Board member, the Board’s
executive director, and the Board’s attorney investigates the complaint to determine whether there is probable cause for disciplinary or enforcement proceedings. The Board must notify the licensee of the investigation and the specific charges being investigated.

The Board may enter into informal settlements with the licensee without the filing of formal charges or may take formal disciplinary actions, including a formal disciplinary hearing if necessary. If a licensee has committed fraud or deceit in obtaining a license or has committed gross negligence, incompetence, or misconduct in the practice of residential home building, the Board may suspend or revoke the license and/or impose an administrative fine. In addition, the Board may require the licensee to successfully complete builder education requirements, and may impose administrative fines for violations of the Act and of the rules and regulations of the Board.

- **Administering Internal Operations.** A significant portion of the agency’s work includes general administrative, financial, and personnel activities performed to support the programmatic areas of the agency including:

  - **Managing the Agency:** Activities include internal office management activities common to most government agencies such as corresponding and communicating, scheduling, meeting, documenting policy and procedures, reporting, litigating, legislating (drafting, tracking), publicizing and providing information, managing records, and managing information systems and technology.

  - **Managing Finances:** Activities include budgeting (preparing and reviewing budget package, submitting the budget package to the Department of Finance, documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency’s budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; and assisting in the audit process.

  - **Managing Human Resources:** Activities include recruiting and hiring eligible individuals to fill positions within the agency; providing compensation to employees; providing benefits to employees such as leave, health insurance, unemployment compensation, worker’s compensation, injury compensation, retirement, and death benefits; supervising employees by evaluating performance, granting leave, and monitoring the accumulation of leave; training and providing continuing education for employees; investigating and disciplining.

  - **Managing Properties, Facilities, and Resources:** Activities include inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; leasing and/or renting offices or facilities; providing security for property managed by the agency; insuring property; and assigning, inspecting and maintaining agency property.
Records Appraisal of the Home Builders Licensure Board

The following is a discussion of the two major categories of records created and/or maintained by the Board: Temporary Records and Permanent Records.

Temporary Records

Temporary records should be held for what is considered their active life and be disposed of once all fiscal, legal, and administrative requirements have been met. Some of the temporary records created by the Board are discussed below:

- **Home Builders Database.** The Board is responsible for examining and licensing applicants as home builders and residential roofers; initiating investigations against licensees, residential home builders, or residential roofers, either on its own motion or upon the written complaint of an original home builder; and establishing and maintaining a special revenue fund, known as the Homeowners’ Recovery Fund, to provide relief to aggrieved homeowners who sustain actual economic damages as the direct result of licensed home builders’ conduct in violation of the Board’s enabling statute or administrative rules. The database contains records including, but not limited to, licensure files, application files not resulting in licensure, unlicensed builder files, board complaints, consumer complaints, and Homeowners’ Recovery Fund files.

Because various record series exist within the database, database records are to be retained according to their designated retention period and other data entry fields are to be retained until superseded.

- **Home Builders Licensure Files with No Disciplinary Actions.** This Board is responsible for examining and licensing applicants as home builders and residential roofers. These files serve as evidence of the scope of a licensee’s professional practice in this state, from initial licensing to final separation. A typical licensure file may contain a completed application form, credit report, evidence of a successful examination, correspondence, and renewal documents. Licensure files may also include, but are not limited to, inactive license files, applications not resulting in licensure, unlicensed builder files.

The Code of Alabama 1975 § 34-14A-15(a)(2) authorizes the Board to issue more than one type of license. The Board issues three types of licenses: unlimited, limited, and roofers.

An unlimited license permits the licensee to perform work involving more than one trade or work that impacts the structural integrity of the house, such as framing and foundation repair. A limited license permits the licensee to practice specific trades such as siding, flooring, painting, sheetrock, drywall, and any other work that does not impact the structural integrity of the house. A roofers license permits the licensee to install products or repair surfaces on the external upper covering of the residence or structure that seals, waterproofs, or weatherproofs the residence or structure. Licensees may not use both a
limited license and a roofers license on a single structure. For example, a licensee cannot use a roofers license to perform residential roofing and then use a limited license to install flooring on the same structure. No act for which an unlimited license is required may be performed under a limited license or a roofers license.

Because a licensee who is holding an expired license may reactivate his/her license within a three-year period, the Board must maintain expired licensure files for a minimum of three (3) years before closing the file. The Board maintains licensure files with no disciplinary action for six (6) years after the file has been closed.

- **Homeowners’ Recovery Fund Claim Files – Paid.** The Code of Alabama 1975 § 34-14A-15 authorizes the Board to open a Homeowners’ Recovery Fund. Recovery Fund files are based upon civil suits rather than administrative complaints; therefore, the Alabama Rules of Civil Procedure and the Code of Alabama govern claims against the Recovery Fund. Should the Board determine to pursue execution on the judgments assigned to the Fund upon payment, said action must commence within 20 years of the judgment (Code of Alabama 1975 § 6-9-190). Recovery Fund files are related to Home Builders Licensure Files with Disciplinary Actions, which are designated as permanent records. The recommended retention for the file is twenty (20) years to satisfy the statute of limitations on the filing of an appeal of the judgment or order to pay, or the filing of a civil suit against the Fund.

- **Complaint and Violation Investigation Files with No Probable Cause Finding.** Alabama Administrative Code 465-X-5 authorizes the Board to investigate and determine whether a licensee or residential home builder violated the statute and/or one or more of the Board’s rules or regulations, resulting in a formal disciplinary proceeding or an enforcement proceeding. The Code of Alabama 1975 § 34-14A-8 authorizes the Board to open a board complaint file, consumer complaint file, unlicensed builder tip file, or unlicensed builder file.

  Board Complaint Files, Consumer Complaint Files, and Subpoena Files are to be kept six (6) years after the file has been closed. The Code of Alabama 1975 § 34-14A-8 requires consumer complaints to be “submitted to the Board’s executive director within six years of the date of substantial completion of construction or within six years of the date the original homeowner took possession of the residence.”

  Unlicensed Builder Files are to be kept seven (7) years after the file has been closed due to a specific question on the license application regarding work performed in the last seven years.

- **Register of Administrative Rules.** According to the Code of Alabama 1975 § 41-22-6 through § 41-22-7, agencies must compile and maintain “an official register of regulations which shall be compiled, indexed, published in loose-leaf form, and kept up to date…” This “official register of regulations” is known as “The Home Builders Licensure Board Code” and must be made available upon request to all persons. Since the register must be updated on an ongoing basis, it is to be retained until superseded.
**Administrative Rule Change Working Files.** The Alabama Administrative Procedure Act (Code of Alabama Title 41 Chapter 22) details the steps which an agency must follow when updating its administrative rules. Working files are produced in the course of proposal, adoption, amendment, and/or repeal of administrative rules. Records in this series may include but are not limited to the following: received public comments, economic impact statements, and business impact analyses. A retention of 1 year after adoption, amendment, repeal, or rejection of an administrative rule permits review by staff when considering similar rules.

**Permanent Records**

The Archives Division recommends the following records as permanent.

**Promulgating Rules and Regulations**

- **Meeting Minutes, Agendas, and Packets of the Board.** The Code of Alabama 1975 § 34-14A-4 charges the board to meet, at a minimum, on a quarterly basis and at such other times as the chair may designate. As of 2019, the Board generally meets every month except July. Information in meeting minutes, agendas, and packets may include, but is not limited to, discussion of personnel, vendors, purchasing, agency updates, and legislative updates; status reports regarding the Board’s committees, board complaints, consumer complaints, the recovery fund, and unlicensed builders; and hearings.

  The minutes may also include the approval, denial, suspension, ratification, and revocation of licenses and disciplinary action taken against licensees including terms of settlement agreements and administrative resolutions. The agenda includes topics to be discussed during the meeting and the packets include information concerning applications that must be reviewed by the Board before licenses can be issued. The minutes of these meetings are necessary to document the actions of the Board and its members. These records are the best source of information about the functions of the Board and the creation of its policy. *(Bibliographic Title: Meeting Files)*

**Licensing**

- **Annual Roster of Licensees.** The Code of Alabama 1975 § 34-14A-9 requires the Board to prepare and annually publish a roster of all licensees. This roster contains the names of the Board members; the current Home Builders Licensure Law, as codified in the Code of Alabama 1975 § 34-14A-1; the administrative rules and regulations promulgated by the Board; various licensure forms; and the names of all individuals, partnerships, corporations, limited liability companies, and non-profit organizations licensed by the Board. Information contained in the roster includes the licensee’s name, address, and license file number. The roster, which is available online, provides the best source of information on licensed residential home builders in the state. *(Bibliographic Title: Registers and Rosters)*
- **Home Builders Licensure Files with Disciplinary Actions.** The licensure files are used during the disciplinary action process to establish jurisdiction and provide a licensure history of the licensee being disciplined. The Board wishes to permanently retain the licensure files belonging to those licensees who have been disciplined by the Board. *(Bibliographic Title: Not Applicable) (Maintained by the Home Builders Licensure Board)*

**Investigating Complaints and Violations**

- **Orders of the Board.** Alabama Administrative Code 465-X-.06 requires the Board to issue an order within 30 days after either (1) the hearing is concluded, if conducted by the Board, or (2) the Board’s receipt of the hearing officer’s recommendation, if the hearing was conducted by a hearing officer. These records document the Board’s actions and enforcement of the state’s laws regarding home building. *(Bibliographic Title: Board Orders)*

- **Complaint and Violation Investigation Files with Probable Cause Findings.** Alabama Administrative Code 465-X-5 authorizes the Board to investigate and determine whether a licensee or residential home builder violated the statute and/or one or more of the Board’s rules or regulations, resulting in a formal disciplinary proceeding or an enforcement proceeding. The Code of Alabama § 34-14A-8 authorizes the Board to open a board complaint file, consumer complaint file, unlicensed builder tip file, or unlicensed builder file. The Code of Alabama 1975 § 34-14A-15 authorizes the Board to open a recovery fund file. These files may contain, but are not limited to, consumer letters of complaint, investigation reports conducted by the Board’s staff, and orders of the Board if disciplinary action is taken. Records with probable cause findings provide a disciplinary and enforcement history of licensees and residential home builders and by documenting the enforcement proceedings of the Board. *(Bibliographic Title: Not Applicable) (Maintained by the Home Builders Licensure Board)*

**Administering Internal Operations**

- **Policies and Procedures.** Policies and procedures promulgated by the Board document important strategic decisions and reflect the Board’s priorities. *(Bibliographic Title: Policies and Procedures)*

- **Certified Copies of the Administrative Rules.** The Alabama Administrative Code is a compilation of the rules of all state agencies covered by the Alabama Administrative Procedure Act. Each agency covered by the Act may propose and adopt revisions to its administrative rules. According to the Code of Alabama 1975 § 41-22-6, “each agency shall have an officer designated as its secretary and shall file in the office of the secretary of the agency a certified copy of each rule adopted [by the agency].” *(Bibliographic Title: Not Applicable) (Maintained by the Home Builders Licensure Board)*

- **Administrative Files that Document Policy, Process, and Procedure.** These records, which include official correspondence of the agency, document actions and positions of
the agency, do not include correspondence dealing with routine matters. These records include, but are not limited to, correspondence with state officials, legal/advisory correspondence, subject files, and other correspondence (Bibliographical Title: Administrative Files)

- **Annual and Other Periodic Reports.** These records include reports created by the agency that document its critical activities. In accordance with the Code of Alabama 1975 § 34-14A-10, the Board must submit to the Governor annually a report of its transactions for the preceding year. The Code of Alabama 1975 § 41-19-11 mandates that each state agency submit a quarterly performance report (EBO Form No. 10) to the Department of Finance every quarter. In lieu of a separate annual report, the Board submits its fourth quarter performance report to the Governor. The frequency of report publications may vary (annual, biannual, quarterly, etc.). Interim reports that contain the same substantive information as a corresponding annual or other periodic report need not be retained permanently. Where no agency annual report exists, or where the agency annual report does not adequately document activities of the agency, then division annual reports should be retained. (Bibliographic Title: State Publications)

- **Special Reports.** These records include reports created by the agency pertaining to a specific topic or subject area. Special reports may be prepared on an irregular schedule. Interim reports that contain the same substantive information as a corresponding special report need not be retained permanently. (Bibliographic Title: State Publications)

- **Informational and Promotional Materials.** These records are created to build public awareness about a variety of issues and department related activities. The publications may include, but are not limited to, newsletters and pamphlets. The publications help document the activities of the Home Builders Licensure Board and how the Board views these activities. (Bibliographic Title: Publicity Files)

- **Website and Social Media Site(s).** The Board has a website at www.hblb.alabama.gov. The website of the Board contains information on home builder-related law, rules, and regulations; Board members and staff; Board meeting dates; new application packets; and a searchable database of current licensees. ADAH staff capture and preserve the agency’s website and other social media sites via a service offered by the Internet Archive [Archive-It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media site(s) are captured and preserved. If your agency’s website and social media site(s) are not being captured by the service, please contact the Archives Division at 334-242-4452 to get them included. (Bibliographic Title: Website and Social Media Site[s])

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Permanent Records List
Home Builders Licensure Board

Promulgating Rules and Regulations

1. Meeting Minutes, Agendas, and Packets of the Board

Licensing

1. Annual Rosters of Licensees
2. Home Builders Licensure Files with Disciplinary Actions*

Investigating Complaints and Violations

1. Orders of the Board
2. Complaints and Violation Investigation Files with Probable Cause Findings*

Administrating Internal Operations

1. Policies and Procedures
2. Certified Copies of the Administrative Rules*
3. Administrative Files that Document Policy, Process, and Procedure
4. Annual and Other Periodic Reports
5. Special Reports
6. Informational and Promotional Materials
7. Website and Social Media Site(s)

*Indicates records that the Home Builders Licensure Board determined should be retained permanently and that ADAH anticipates will remain in the care and custody of the creating agency.

ADAH staff is available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.
Home Builders Licensure Board Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and 41-13-20 through 21. It was compiled by the Archives Division, Alabama Department of Archives and History (ADAH), which serves as the Commission’s staff, in cooperation with representatives of the Agency. The RDA lists records created and maintained by the Agency in carrying out their mandated functions and activities. It establishes minimum retention periods and disposition instructions for those records and provides the legal authority for the Agency to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from “mutilation, loss, or destruction,” so that they may be transferred to an official’s successor in office and may be made available to members of the public. Records also must be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the agency records manager or ADAH Archives Division at (334) 242-4452.

Explanation of Records Requirements

The RDA shall govern the disposition of all records, regardless of format, created by the agency from creation to dissolution. Please contact the staff of the Department of Archives and History before destroying any records created prior to 1940.

This RDA supersedes any previous records disposition schedules or RDAs governing the retention of the records created by the Agency. Copies of superseded schedules are no longer valid and may not be used for records disposition.

The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.

Certain other record-like materials are not actually regarded as official records and may be disposed of under this RDA. Such materials include (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document agency activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes, may include, but are not limited to, telephone call-back messages, drafts of ordinary documents not needed for their evidential value, copies of material sent for information purposes but not needed by the receiving office for future
business, and internal communications about social activities; (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff. They may be disposed of without documentation of destruction.

**Records Disposition Requirements**

This section of the RDA is arranged by subfunctions of the Agency and lists the groups of records created and/or maintained as a result of activities and transactions performed in carrying out these subfunctions. The Agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular biannual meetings.

** indicates records no longer created

**Promulgating Rules and Regulations**

**MEETING AGENDAS, MINUTES, AND PACKETS OF THE BOARD**
Disposition: PERMANENT RECORD.

**Recordings of Meetings**
Disposition: Temporary Record. Retain until the official minutes are adopted and signed.

**Licensing**

**ANNUAL ROSTERS OF LICENSEES**
Disposition: PERMANENT RECORD.

**Home Builders Database**
Disposition: Temporary Record. Retain Licensure Files, Complaint Files, and Homeowners’ Recovery Fund Files for as long as the designated retention period and other data entry fields until superseded.

**HOME BUILDERS LICENSURE FILES WITH DISCIPLINARY ACTION**
Disposition: PERMANENT RECORD. Retain in office.

**Home Builders Licensure Files with No Disciplinary Actions**
Disposition: Temporary Record. Retain 6 years after licensure file has been closed.

**Unused Licensure Cards**
Disposition: Temporary Record. Destruction of licensure cards is accomplished in accordance with the regulations of the Department of Examiners of Public Accounts.

**Compensating**

**Homeowners’ Recovery Fund Claim Files – Paid**
Disposition: Temporary Record. Retain 20 years after the file has been closed.
Homeowners’ Recovery Fund Claim Files – Unpaid
Disposition: Temporary Record. Retain 6 years after the file has been closed.

Investigating Complaints and Violations

ORDERS OF THE BOARD
Disposition: PERMANENT RECORD.

COMPLAINT AND VIOLATION INVESTIGATION FILES WITH PROBABLE CAUSE FINDING
Disposition: PERMANENT RECORD. Retain in office.

Complaint and Violation Investigation Files with No Probable Cause Finding
a. Board Complaint Files and Consumer Complaint Files
   Disposition: Temporary Record. Retain 6 years after the file has been closed.

b. Subpoena Files
   Disposition: Temporary Record. Retain 6 years after the file has been closed.

c. Unlicensed Builder Files
   Disposition: Temporary Record. Retain 7 years after the file has been closed.

Administering Internal Operations: Managing the Agency

POLICIES AND PROCEDURES
Disposition: PERMANENT RECORD.

CERTIFIED COPIES OF ADMINISTRATIVE RULES
Disposition: PERMANENT RECORD. Retain in office.

Register of Administrative Rules
Disposition: Temporary Record. Retain until superseded.

Administrative Rule Change Working Files
Disposition: Temporary Record. Retain 1 year after adoption, amendment, repeal, or rejection of the rule.

ADMINISTRATIVE FILES THAT DOCUMENT POLICY, PROCESS, AND PROCEDURE
Disposition: PERMANENT RECORD.

ANNUAL AND OTHER PERIODIC REPORTS
Disposition: PERMANENT RECORD.
SPECIAL REPORTS
Disposition: PERMANENT RECORD.

INFORMATIONAL AND PROMOTIONAL MATERIALS
Disposition: PERMANENT RECORD.

Routine Correspondence
Disposition: Temporary Record. Retain 3 years.

Administrative Reference Files
Disposition: Temporary Record. Retain for useful life.

Board Member Files
Disposition: Temporary Record. Retain 1 year after audit after the end of the fiscal year in which the term expires.

Board Appointment Letters
Disposition: Temporary Record. Retain 1 year after audit after the end of the fiscal year in which the term expires.

Internal Procedures
Disposition: Temporary Record. Retain until superseded.

Legislative Files (drafts of proposed agency-sponsored legislation, tracking files and records)
Disposition: Temporary Record. Retain for useful life.

Records documenting the implementation of the agency’s approved RDA (copies of transmittal forms to Archives or State Records Center, evidence of obsolete records destroyed, and annual reports to State Records Commission)
Disposition: Temporary Record. Retain 1 year after audit after the end of the fiscal year in which the RDA was superseded.

Copies of Approved RDA
Disposition: Temporary Record. Retain 1 year after the audit for the fiscal year in which the RDA is superseded.

Computer Systems Documentation (Hardware/Software Specifications and Warranties)
Disposition: Temporary Record. Retain documentation of former system 1 year after audit for the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

WEBSITE AND SOCIAL MEDIA SITE(S)
Disposition: PERMANENT RECORD.
Note: ADAH staff capture and preserve the agency’s website and other social media sites via a service offered by the Internet Archive [Archive It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media site(s) are captured and preserved. If your agency’s website and social media site(s) are not captured by the service, please contact the Archives Division at 334-242-4452 to get them included.

Administering Internal Operations: Managing Finances

Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products (includes AST-1 and AST-1A)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of original entry or routine accounting transactions, such as journals, registers, and ledgers, and records of funds deposited outside the state treasury
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Purchase and Repair Order Documents
Disposition: Temporary Record. Retain for life of warranty.

Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting contracts for services or personal property
Disposition: Temporary Record. Retain 6 years after expiration of the contract.

Records documenting the bid process (including requests for proposals and unsuccessful responses)
Disposition: Temporary Record. Retain for 10 years after the award of the contract.
Agency Audit Reports
Disposition: Temporary Record. Retain 6 years after the end of the fiscal year in which the records were created.

Records documenting the application for, award of, receipt and disbursement of, and reporting of expenditure of federal funds received through grants and federal funds
Disposition: Temporary Record. Retain 6 years after submission of final expenditure report.

Records documenting the unsuccessful application for grants and federal funds
Disposition: Temporary Record. Retain 1 year.

Administering Internal Operations: Managing Human Resources

Job Recruitment Materials
Disposition: Temporary Record. Retain 1 year after audit.

Application Materials
Disposition: Temporary Record. Retain 1 year.

Position Classification Questionnaire
Disposition: Temporary Record. Retain 4 years after reclassification of the position.

Records documenting payroll (e.g. pre-payroll reports, payroll check registers)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm.

Records documenting payroll deduction authorizations
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting payroll deductions for tax purposes (including Form 941)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Personnel File - Records documenting an employee’s work history - generally maintained as a case file
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting employees’ daily and weekly work schedules
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.
Records documenting employee hours worked, leave earned, and leave taken
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records Documenting Leave Donations
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of Final Leave Status
Disposition: Temporary Record. Retain record of individual employees’ cumulative leave 6 years after separation of employee from the agency.

Employee Flexible Benefits Plan Files (Applications and Correspondence)
Disposition: Temporary Record. Retain 6 years after termination of participation in program.

Records documenting the State Employee Injury Compensation Trust Fund (SEICTF) Claims
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting Equal Employment Opportunity Commission (EEOC) Charges of Discrimination
Disposition: Temporary Record. Retain 6 years after final dispensation.

Equal Employment Opportunity Commission Case Files
Disposition: Temporary Record. Retain 3 years.

Employee Administrative Hearing Files
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records Documenting Employee Grievances (Internal Complaints)
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting complaints against the agency and its employees from outside the agency (made by members of the public, officials, or supervisees, etc.)
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.
Records (maintained separately from employee personnel file), documenting employee disciplinary proceedings and appeals of formal reprimands, demotions, transfers, or terminations resulting from a grievance or complaint
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting the administration of the unemployment compensation program
Disposition: Temporary Record. Retain 6 years after conclusion of eligibility.

Employee Flexible Benefits Plan Files (Applications and Correspondence)
Disposition: Temporary Record. Retain 6 years after termination of participation in program.

Administering Internal Operations: Managing Properties, Facilities, and Resources

Semiannual Inventory Lists
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later (Code of Alabama 1975 § 36-16-8[1]).

Agency Copies of Transfer of State Property Forms (SD-1)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Property Inventory Cards and/or Computer Files
Disposition: Temporary Record. Retain 1 year after audit.

Property Inventory Affidavits
Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Receipts of Responsibility for Property
Disposition: Temporary Record. Retain until return of item to property manager.

Records documenting the use, maintenance, ownership, insurance, and disposition of vehicles owned by the agency
Disposition: Temporary Record. Retain 1 year after audit for the year in which the equipment is removed from the property inventory.

Facilities/Building Security Records (including visitor logs)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Real Property Renting/Leasing records
Disposition: Temporary Record. Retain 6 years after the termination of lease or rental agreement or until agency is audited and audit report is released, whichever is longer.
Facilities/Building Security Records (including visitor logs)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit.

Motor Pool Vehicle Use Records
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting the use, maintenance, ownership, insurance, and disposition of vehicles owned by the agency
Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the vehicle was removed from the property inventory.

Insurance Policies/Risk Management Records
Disposition: Temporary Record. Retain 6 years after termination of policy or membership.

Building Maintenance Work Orders
Disposition: Temporary Record. Retain 1 year.

Records Documenting Vehicle Use/Mileage
Disposition: Temporary Record. Retain 1 year.
 Requirement and Recommendations for Implementing the Records Disposition Authority (RDA)

Requirement

Under the Code of Alabama 1975 § 41-13-21, “no state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission.” This Records Disposition Authority constitutes authorization by the State Records Commission for the disposition of the records of the Agency as stipulated in this document.

One condition of this authorization is that the Agency submit an annual Records Disposition Authority (RDA) Implementation Report on its activities, including documentation of records destruction, to the State Records Commission.

Recommendations

In addition, the Agency should make every effort to establish and maintain a quality record-keeping program by conducting the following activities:

The Agency should designate a staff member in a managerial position as its records liaison/records manager, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the agency’s approved RDA.

Permanent records in the Agency’s custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.

Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA’s provisions, no record should be destroyed that is necessary to comply with requirements of the Open Meetings Act, audit requirements, or any legal notice or subpoena.

The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records’ permanent preservation and accessibility.

Electronic mail contains permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA’s requirements, the
office should preferably employ an electronic records management system capable of sorting e-mail into folders and archiving messages having long-term value.

The staff of the State Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records maintained in the custody of the Agency and inspect records destruction documentation. Agency records managers and/or the ADAH archivists are available to instruct the staff in RDA implementation and otherwise assist the Agency in implementing its records management program.

The State Records Commission adopted this records disposition authority on October 30, 2019.

_____________________________________________    ______________ ___
Steve Murray, Chairman    Date
State Records Commission

By signing below, the agency acknowledges receipt of the retention periods and requirements established by the records disposition authority.

_____________________________________________    ______________ ___
J.R. Carden, Jr., Executive Director    Date
Home Builders Licensure Board