

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 465 Department or Agency Home Builders Licensure Board
Rule No. 465-X-3.03
Rule Title: Exemptions
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

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 and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

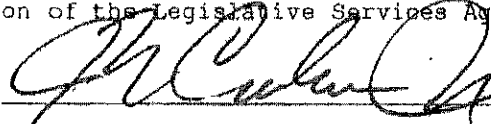
Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 

Date June 20, 2018

(DATE FILED)
(STAMP)

Home Builders Licensure Board
NOTICE OF INTENDED ACTION

AGENCY NAME: Home Builders Licensure Board

RULE NO. & TITLE:

Ala. Admin. Code r. 465-X-3-.01. Requirement for Licensing.

Ala. Admin. Code r. 465-X-3-.03. Exemptions.

INTENDED ACTION: Amend rules.

SUBSTANCE OF PROPOSED ACTION:

The amendment of Ala. Admin. Code r. 465-X-3-.01 states that the rule is subject to Ala. Code § 41-22-19, and removes unneeded language.

The amendment of Ala. Admin. Code r. 465-X-3.03. clarifies exemptions to the Home Builder Licensure Law.

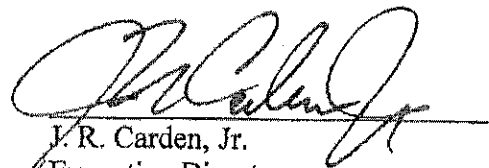
TIME, PLACE, MANNER OF PRESENTING VIEWS: August 25, 2018

All interested parties may submit data, views or arguments respecting the proposed amendment by mail or in person for the 35-day period beginning June 29, 2018. Persons wishing to submit data, views or arguments orally should contact the Board's executive director between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding State holidays, at 334-242-2230, to set up an appointment for such oral presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

CONTACT PERSON AT AGENCY:

Jamie A. Durham, Esq.
Chief Legal Counsel
P.O. Box 303605
Montgomery, Alabama 36130-3605


J. R. Carden, Jr.
Executive Director

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 the business of residential home building, including residential roofing;
- (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 the business of residential home building, including residential roofing, 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 this title, and who continue to maintain that license in good standing;
- (4) ~~Licensed real estate agents~~ Real estate licensees, 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~~ residential home builder including residential roofer 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 of property shall be deemed to have acted as their own ~~contractors~~ residential home builder if they do not hire or compensate anyone to engage in the business of residential home building, including residential roofing, supervise the building or improvement on of their residences or any part thereof; and
 - (b) The exemption for owners of property applies only to the owner. Residential home builders, including residential roofers, contracting directly with the owner are not exempt from holding any license required pursuant to the Act; and
 - (c) Proof of the sale or offering for sale of such structure by the owner claiming the owner exemption-builder within one year after completion of same is presumptive evidence that the construction was undertaken for the purpose of sale; and
 - (d) The exemption for owners of property is a nontransferable privilege. Attempts to transfer this exemption by agency, power of attorney, or other legal means is presumptive evidence that the claim of owner exemption is not valid.
- (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;

(7) Agricultural buildings, as defined in Ala. Admin. Code r. 465-X-1-.01(3), except for any residence contained therein.

Authors: David R. Boyd, Dorman Walker, Lois Woodward, Kathy Perry Brasfield, Jamie A. Durham, J. Seth Gowan.

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. **Amended:** Filed _____; effective _____.