

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 355 Department or Agency: Department of Finance, Division of Construction Management
Rule No. 170-x-24

Rule Title: Home Inspector Registration Program
 New Amend Repeal Adopt by Reference

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? 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 *Frank Barnes*
Frank Barnes

Date *MARCA 20, 2019*

APA-2

**Department of Finance
Division of Construction Management**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Finance, Division of Construction Management

RULE NO. & TITLE: 170-x-24 Alabama Home Inspectors Registration Program

INTENDED ACTION: The Department of Finance, Division of Construction Management, proposes to amend an existing rule.

SUBSTANCE OF PROPOSED ACTION: The amended rule updates the requirements to become a licensed home inspector, adds a requirement that inspectors receive continuing education, and creates a Home Inspectors Advisory Committee to advise the director of the home inspectors registration program.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held only if requested by an interested party. A written request shall be submitted to the agency contact person listed below. Interested persons may present their view in writing to the Department of Finance, Division of Construction Management, P.O. Box 301150, Montgomery, AL 36130-1150.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: The Department of Finance, Division of Construction Management will accept comments no later than May 3, 2019 at 5 p.m.

CONTACT PERSON AT AGENCY: Frank Barnes, Department of Finance, Division of Construction Management, P.O. Box 301150, Montgomery, AL 36130-1150, Phone 334-242-4082 or frank.barnes@bc.alabama.gov.



Frank Barnes

ALABAMA DEPARTMENT OF FINANCE
DIVISION OF CONSTRUCTION MANAGEMENT
ADMINISTRATIVE CODE

CHAPTER 355-17-1
ALABAMA HOME INSPECTORS REGISTRATION PROGRAM

TABLE OF CONTENTS

170-X-24-.01	<u>355-17-1.01</u>	Definitions
	<u>355-17-1.02</u>	Responsibilities
170-X-24-.02	<u>355-17-1.03</u>	Roster of Licenses
170-X-24-.03	<u>355-17-1.04</u>	Requirement for Licensing
170-X-24-.04	<u>355-17-1.05</u>	Filing
170-X-24-.05	<u>355-17-1.06</u>	<u>Home Inspector License</u>
	<u>Requirements</u>	
	<u>355-17-1.07</u>	<u>EIFS Inspector License</u>
	<u>Requirements</u>	
170-X-24-.06	<u>355-17-1.08</u>	Annual License Renewal, Consequences of Failure to Renew
170-X-24-.07	<u>355-17-1.09</u>	Denial of License
170-X-24-.08	<u>355-17-1.10</u>	Failure of Timely Payment of Fees
170-X-24-.09	<u>355-17-1.11</u>	Method of Payment, Time of Payment
170-X-24-.10	<u>355-17-1.12</u>	Fees Not Refundable
170-X-24-.11	<u>355-17-1.13</u>	Fees
170-X-24-.12	<u>355-17-1.14</u>	Fee Adjustments
	<u>355-17-1.15</u>	<u>Home Inspectors Advisory</u>
	<u>Committee</u>	
	<u>355-17-1.16</u>	<u>Duties of the Committee</u>
170-X-24-.13	<u>355-17-1.17</u>	<u>Violations of Act,</u> Initiation of Proceedings
170-X-24-.14	<u>355-17-1.18</u>	Complaint Procedure
170-X-24-.15	<u>355-17-1.19</u>	Pre-Hearing Discovery
170-X-24-.16	<u>355-17-1.20</u>	Disciplinary Hearings
170-X-24-.17	<u>355-17-1.21</u>	Discipline
170-X-24-.18	<u>355-17-1.22</u>	Appeal
170-X-24-.19	<u>355-17-1.23</u>	Reinstatement of License After Revocation or Suspension
170-X-24-.20	<u>355-17-1.24</u>	Temporary Restraining Orders and Other Injunctive Relief
170-X-24-.01	<u>355-17-1.01</u>	<u>Definitions.</u>

~~(1) Code of Ala. 1975, §34-14B-2, provides for the definition of the following terms: Building Commission, Exterior Insulation and Finish Systems (EIFS) Inspector, Home Inspector, Person and Residence.~~

~~(2)(1)~~ Act. The term "Act" as used in this Chapter ~~170-X-24~~ 355-17-1 shall mean Title 34, Chapter 14B of the Code of Ala. 1975, as amended.

~~(3)(2)~~ 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.

~~(4)(3)~~ Director. The term "Director" is defined in Rule ~~355-11-1-.03(b) 170-X-1-.03(b)~~. Further, the Director shall be the official of the Building Commission Division of Construction Management responsible for and empowered to implement, supervise, and carry out the requirements of this Alabama Home Inspectors Registration Program. The Director's powers shall include, but shall not be limited to, the decision to accept, reject, approve, or disapprove of ~~any and all~~ applications (whether initial, renewal, or reconsideration) for licensure, to revoke or suspend licensure, imposition of fines and making a final decision on all complaint procedures, disciplinary hearings, and enforcement.

(4) Division of Construction Management. The Division of Construction Management established pursuant to Article 14, commencing with Section 41-4-400, Division 5, Chapter 4, Title 41.

(5) Exterior Insulation and Finish Systems (EIFS) Inspection. The process by which an inspector examines an EIFS in accordance with the Standards of Practice for EIFS Inspectors found in Rule 355-18-1-.03.

(6) Exterior Insulation and Finish Systems (EIFS) Inspector. A person who engages in the business of performing inspections of exterior insulation and finish systems for compensation and who, in the pursuit of that independent business, undertakes or offers to undertake, or submits a bid to, or contracts or undertakes to inspect, or assumes charge of, in a supervisory capacity or otherwise, or inspects the condition of or the installation of EIFS on a private, commercial, or other building on behalf of another person.

(7) Home Inspection. The process by which an inspector visually examines the readily accessible systems and components of

a home and which describes those systems and components in accordance with Standards of Practice found in Rule 355-18-1-.01.

(8) Home Inspector. A person who engages in the business of performing home inspections for compensation and, who, in the pursuit of that independent business, undertakes or offers to undertake, or submits a bid to, or contracts or undertakes to inspect, or assumes charge, in a supervisory capacity or otherwise, or inspects the condition of, the construction of or erection of a private residence on behalf of another person.

~~(5)~~ (9) License. The term "license" as used in this Chapter ~~170-X-24~~ 355-17-1 shall mean a certificate of licensure issued or renewed by the ~~Building Commission~~ Division of Construction Management pursuant to the Act and this ~~Chapter 170-X-24~~ Rule 355-17-1.

(10) Person. Any natural person, limited or general partnership, association, corporation, or other legal entity, or any combination thereof.

(11) Residence. Any dwelling, from one to four units in design intended principally for residential purposes by one or more individuals.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective _____.

355-17-1.02 Responsibilities. The Division of Construction Management shall do the following consistent with Code of Ala. 1975, §§34-14B-1, et seq. and this chapter:

(a) Issue, renew, suspend, or revoke licenses for Home Inspectors and EIFS Inspectors.

(b) Investigate and conduct hearings upon complaints to determine if disciplinary action is warranted.

(c) Take disciplinary action when warranted, including the imposition of administrative fines.

(d) Establish reasonable licensure fees, including, but not limited to, initial application, renewal, reinstatement, and late fees.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed March 20, 2019; effective _____.

~~170-X-24-.02 355-17-1.03 Roster of Licenses.~~ Beginning in 2003, the Building Commission shall, by March 31 of each year, publish on its website and otherwise make available for public inspection upon request, a complete roster of all licenses issued and renewed for that calendar year. The Building Commission shall keep the roster updated throughout the year.

(1) The Division of Construction Management shall publish on its website and otherwise make available for public inspection upon request, a complete roster of all licenses issued and renewed for that calendar year. The Division of Construction Management shall keep the roster updated throughout the year.

(2) The Division of Construction Management shall publish on its website and otherwise make available for public inspection upon request, a complete roster of all home inspectors who have obtained a Residential New Construction Designation in addition to their license. To obtain a Residential New Construction Designation, a Home Inspector licensed and in good standing under this chapter must:

(a) Submit the appropriate application form as permitted by the Director;

(b) Submit proof of successful completion of an eight-hour Residential New Construction training module approved by the Director and completed no more than two years prior to the date of application.

The lack of a Designation shall not be construed to limit the rights of any licensee under the Act. It is not a mandatory requirement for inspecting residential new construction.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective _____.

~~170-X-24-.03~~ 355-17-1.04 Requirement for Licensing. All Home Inspectors and EIFS Inspectors shall have and maintain a current license issued by the Building Commission Division of Construction Management. 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.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.04~~ 355-17-1.05 Filing. License applications, annual license renewal applications, and all other applications or submissions required by the Act and these rules shall be deemed filed when received by the Director. The Director may reject an application that is inaccurate, incomplete, ~~not notarized,~~ or for which all fees due have not been paid in the form required at the time the application is filed. ~~All applications for licenses for the calendar year 2003 must be filed with the Director on or before November 29, 2002.~~

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.05~~ 355-17-1.06 Home Inspector License Requirements.

(1) To initially become a Home Inspector, one must:

(a) Have one of the following four qualifications:

1. Membership in and adherence to the ethical standards of one of the following professional bodies at the time of application:

American Society of Home Inspectors, Inc. (ASHI), 932 Lee Street, Suite 101, Des Plaines, IL 60016

Housing Inspection Foundation, P.O. Box 879, Palm Springs, CA 92263.

International Association of Certified Home Inspectors
(InterNACHI), 1750 30th Street, Suite 301, Boulder, CO 80301

2. Approval or certification by one of the following agencies to inspect residential construction: The United States Veterans Administration, United States Department of Housing and Urban Development, the Southern Building Code Congress International, or the Council of American Building Officials.

3. A high school diploma or its equivalent, work experience for at least one year as a home inspector, and completion of at least 100 home inspections for compensation.

4. Alabama licensure on or after January 1, 1998, as a general contractor, registered professional architect, registered professional engineer, or residential home builder. Renewals of home inspector licensure previously supported by evidence of an acceptable professional license shall not require the applicant to repeat proof of such professional licensing.

(b) Attain a combination of completing hours of pre-approved home inspector education and participating in home inspections under the supervision of a qualified Home Inspector, as defined in Subsection (d). The applicant must either:

1. Complete a minimum of 120 hours of approved home inspector education and participate in 35 home inspections.

OR

2. Complete a minimum of 35 hours of approved home inspector education and participate in 100 home inspections.

Approved home inspector education shall include instruction on writing home inspection reports. Approved education includes courses that are approved by the professional bodies listed in 355-17-1-.06(a)(1) or courses that have been approved by the Alabama Home Inspectors Advisory Committee.

(c) Complete a written examination demonstrating to the Division of Construction Management that the applicant possesses an appropriate understanding of the Standards of Practice (Rule 355-18-1-.01) and the Code of Ethics (Rule 355-18-1-.02) promulgated by the Division of Construction Management and a written examination demonstrating adequate knowledge of performing home inspections. The

written examination for Home Inspectors to demonstrate appropriate understanding of the Standards of Practice and Code of Ethics will be the American Society of Home Inspectors Standards and Ethics Examination. The written examination demonstrating adequate knowledge of performing home inspections will be the Examination Board of Professional Home Inspectors National Home Inspectors Examination. Applicants shall pay all fees associated with testing directly to the organizations conducting the testing. Both tests must be completed within 18 months before submitting an application for a Home Inspector license.

(d) Draft Home Inspection reports for 25 home inspections. These 25 reports must be reviewed and corrected by a qualified Home Inspector. A Home Inspector is qualified if (1) he or she is licensed in his or her state of practice and has been licensed for the past five years, or (2) he or she has been a member of a group listed in 355-17-1-f.05 (1) (a) (1) for the past five years and he or she practices in a state without licensing.

(e) Obtain bodily injury and property damage liability insurance covering the applicant's home inspection operations in the sum of not less than \$20,000 for injury or damage to property; \$50,000 for injury or damage, including death, to any one person; \$100,000 for injury or damage, including death, to more than one person; and \$250,000 of errors and omissions coverage.

(f) File an accurate, complete, and timely application for license with the Director, along with the appropriate fee.

~~(1) In order to receive a license, a Home Inspector must successfully complete the following actions:~~

~~(a) File an accurate, complete, timely, and notarized application for license with the Director, along with the appropriate fee.~~

~~(b) Obtain bodily injury and property damage liability insurance covering the applicant's home inspection operations in the sum of not less than \$20,000 for injury or damage to property; \$50,000 for injury or damage, including death, to any one person; \$100,000 for injury or damage, including death, to more than one person; and \$250,000 of errors and omissions coverage.~~

~~(c) Provide evidence of one of the following professional qualifications:~~

~~1. Membership in and adherence to the ethical standards of one of the following professional bodies at the time of application:~~

~~American Society of Home Inspectors, Inc. (ASHI), 932 Lee Street, Suite 101, Des Plaines, IL 60016~~

~~Housing Inspection Foundation, dba The Association of Home Inspectors, 1224 North Nokomis, N.E., Alexandria, MN. 56308.~~

~~Home Inspection Institute, 4007 LaCrosse Avenue, Cincinnati, OH 45227.~~

~~National Association of Home Inspectors, Inc., 4248 Park Glen Road, Minneapolis, MN 55416.~~

~~National Institute of Building Inspectors (NIBI), 424 Vosseller Avenue, Bound Brook, NJ 08805.~~

~~American Inspectors Society, P.O. Box 702, Stone Mountain, GA 30086.~~

~~Home Inspection Institute of America, P.O. Box 4174, Yalesville, CT 06492-1524.~~

~~Inspection Depot, 7700 Square Lake Blvd., Bldg. 2, Jacksonville, FL 32256.~~

~~Advantage Systems ASP, LLC, P.O. Box 3917, Greenville, SC 29608.~~

~~Inspection Technology Institute, 849 N. Ellsworth St., Naperville, IL 60563.~~

~~International Society of Home Inspectors, 141 Robert E. Lee Blvd. 50, New Orleans, LA 70124.~~

~~2. Approval or certification by one of the following agencies to inspect residential construction: The United States Veterans Administration, United States Department of Housing and Urban Development, the Southern Building Code Congress International, or the Council of American Building Officials.~~

~~3. A high school diploma or its equivalent, work experience for at least one year as a home inspector, and completion of at least 100 home inspections for compensation.~~

~~4. Alabama licensure on or after January 1, 1998, as a general contractor, registered professional architect, registered professional engineer, or residential home builder. Renewals of home inspector licensure previously supported by evidence of an acceptable professional license shall not require the applicant to repeat proof of such professional licensing.~~

~~(d) Complete a written examination demonstrating to the Building Commission that the applicant possesses an appropriate understanding of the Standards of Practice (Rule 170-X-25-.01) and the Code of Ethics (Rule 170-X-25-.02) promulgated by the Building Commission and a written examination demonstrating adequate knowledge of performing home inspections. The written examination for Home Inspectors to demonstrate appropriate understanding of the Standards of Practice and Code of Ethics will be the American Society of Home Inspectors Standards and Ethics Examination. The written examination demonstrating adequate knowledge of performing home inspections will be the Examination Board of Professional Home Inspectors National Home Inspectors Examination. Applicants shall pay any and all fees associated with testing directly to the organizations conducting the testing. Applicants must present with their application, original or duplicate test score reports demonstrating that the applicant has passed both tests within ninety (90) days of submitting the application.~~

~~(2) In order to receive a license, an EIFS Inspector must meet the same qualifications as a Home Inspector except applicants for licensure as an EIFS Inspector need not obtain the insurance referred to in subsection (1) (b) above, provide evidence of one of the professional qualifications referenced in subsection (1) (c) above or sit for the written examination specified by the Building Commission. An EIFS Inspector shall comply with the Standards of Practice and Code of Ethics promulgated at Rules 170-X-25-.03 and .04. In addition, an EIFS Inspector must, at the time of application, be a member of and adhere to the ethical standards of one of the following professional bodies:~~

~~Exterior Design Institute, 1531 Early Street, Norfolk, VA 23502.~~

~~Association of the Wall and Ceiling Industry, 803 Broad Street, Suite 600, Falls Church, VA 22046.~~

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed February 2, 2004; effective

March 8, 2004. **Amended:** Filed March 20, 2019; effective _____.

355-17-1.07 EIFS Inspector License Requirements.

To become an EIFS Inspector, one must:

(a) Be a member of and adhere to the ethical standards of one of the following professional bodies:

Exterior Design Institute, 1531 Early Street, Norfolk, VA 23502.

Association of the Wall and Ceiling Industry, 513 West Broad Street Suite 210, Falls Church, VA 22046.

(b) Sign a statement declaring that the applicant has read and will comply with the Standards of Practice and Code of Ethics promulgated at Rules 355-18-1-.03 and -.04.

(c) File an accurate, complete, and timely application for license with the Director, along with the appropriate fee.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34 14B 1, et seq.; 41 9 140, et seq.

History: New Rule: Filed March 20, 2019; effective _____.

~~170-X-24-.06~~ 355-17-1.08 Annual License Renewal, Consequences 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 renewed by the licensee.

(2) Beginning with renewals for the 2021 license year, to renew a Home Inspector license, the licensee must:

(a) Complete 20 hours of approved continuing education per year. Licensees must retain proof of completion of this requirement for three years. The Commission will randomly audit licensees for proof that continuing education was completed.

(b) Demonstrate continued compliance with the requirements found in Rules 355-17-1-.06(1) (a) and (e).

(c) For renewals of licenses for the year 2021, the license must have, in the last two years, completed at least three hours of continuing education dedicated to writing Home Inspection reports. These hours will count towards the 20 hours of continuing education required for that year.

(d) File a complete, accurate, and timely annual license renewal application with the Director. This application shall include a signed declaration that the licensee has completed the required continuing education. Annual license renewal applications must be filed with the Division of Construction Management by October 1 of the year preceding the year for which the license is to be renewed. Any renewal applications received after October 1 may, in the sole discretion of the Director, be rejected for that reason alone. Certificates of licensure shall be renewed on or before 60 days prior to the expiration date.

(3) To renew an EIFS Inspector license, the licensee must:

(a) Demonstrate continued compliance with the requirements found in Rule 355-17-1-.07(a).

(b) File a complete, accurate, and timely annual license renewal application with the Director. Annual license renewal applications must be filed with the Division of Construction Management by October 1 of the year preceding the year for which the license is to be renewed. Any renewal applications received after October 1 may, in the sole discretion of the Director, be rejected for that reason alone. Certificates of licensure shall be renewed on or before 60 days prior to the expiration date.

(4) If a licensee changes his or her address during the license year, the licensee promptly must notify the Division of Construction Management of the new address.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed February 2, 2004; effective March 8, 2004. **Amended:** Filed March 20, 2019; effective

170-X-24-07 355-17-1.09 Denial of License.

(1) Grounds for Denial. The Director may deny an application for a license or a license renewal for the applicant's failure to meet any requirement or standard established by the Act or these rules.

(2) Notice of Denial. The ~~Building Commission~~ Division of Construction Management shall give any applicant whose application for licensure or renewal is denied a written notice specifying the reason for the denial.

(3) Reconsideration.

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

(b) An applicant who claims to have been wrongfully denied a license may request reconsideration of the Director's decision at any time within 45 days after the date of the Director's notice of denial. This request for reconsideration must be in writing and must include evidence that the Director 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. Regarding this request for reconsideration, the applicant shall be entitled to appear before a technical committee designated by the Director, to present the request. Applicants requesting reconsideration of denial shall be notified of the opportunity to appear before the committee by letter, mailed certified mail, return receipt requested, to the most recent address on file with the ~~Building Commission~~ Division of Construction Management at least 15 days prior to the scheduled date of the committee meeting. The notice shall also otherwise substantially comply with the requirements found in Code of Ala. 1975, §41-22-12(b). In the event an applicant receives less than 15 days' notice as described herein, the Director may grant a continuance until the next meeting date. The committee shall report to the Director its recommendation concerning the applicant's request for reconsideration. The Director shall be solely responsible for deciding whether to grant or deny the applicant a license. Should the Director deny the applicant his or her license, the applicant

shall thereafter be entitled to appeal that decision to circuit court, as provided in Rule 355-17-1-.18 ~~170-x-24-.18~~.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-x-24-.08~~ 355-17-1.10 Failure of Timely Payment of Fees. An application for a license, or any request for which a fee is required, must be accompanied by payment of the requisite fee in full in the appropriate form, or else the application or request shall be denied.

Author: Kippy Tate

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002.

~~170-x-24-.09~~ 355-17-1.11 Method of Payment, Time of Payment. Fees shall be paid by cashier's check, bank check, commercial money order, or an electronic means accepted by the Director. Fees are deemed paid when the funds represented by the check or money order actually are received by or made available to the Director.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-x-24-.10~~ 355-17-1.12 Fees Not Refundable. No fee or part of a fee paid by an applicant for a license, or any request for which a fee is required, shall be refunded ~~as a result of because of~~ the denial, revocation, or suspension of the applicant's license. In the event an applicant fails to complete the application process successfully ~~or to take or pass the written examination,~~ or the Director refuses to issue a license to an applicant, any license fee submitted as part of the application process shall not be refunded.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.11~~ 355-17-1.13 Fees. A fee of \$300 shall accompany every application for licensure or application for the renewal of a license.

Author: Kippy Tate

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002.

~~170-X-24-.12~~ 355-17-1.14 Fee Adjustments. The ~~Building Commission~~ Division of Construction Management may adjust the fees as necessary to cover the ~~Building Commission~~ Division of Construction Management's operating costs as provided in Code of Ala. 1975, §34-14B-5.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

355-17-1.15 Home Inspectors Advisory Committee - Creation; composition.

(1) There shall be an Alabama Home Inspectors Advisory Committee, consisting of eight members, each of whom shall be appointed by the Director, selected as follows:

(a) Two members of the committee shall be current Alabama licensed home inspectors that are current ASHI members with a minimum of five years' experience as a licensed home inspector.

(b) Two members of the committee shall be current Alabama licensed home inspectors that are current InterNACHI members with a minimum of five years' experience as a licensed home inspector.

(c) One member of the committee shall be a current Alabama licensed home inspector that is an active member of a professional home inspector body other than InterNACHI or ASHI with a minimum of five years' experience as a licensed home inspector.

(d) One member of the committee shall be a current Alabama licensed home inspector that is an active Alabama Home Inspectors Organization (AHIO) member with a minimum of five years' experience as a licensed home inspector.

(e) One member of the committee shall be a current Alabama licensed EIFS inspector and a minimum of five years' experience as a licensed EIFS inspector.

(f) One member of the committee shall be a current Alabama licensed home inspector that is a licensed Alabama homebuilder with a minimum of five years' experience as a licensed home inspector.

(g) If the Director is unable to find a willing individual that meets the above criteria, any licensed home inspector may be appointed to that seat.

(2) The Director shall coordinate her or his appointments to assure membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.

(3) The term of office of the members of the committee shall be two years and until a successor for that seat is appointed and qualified. However, the four of the original eight members of the committee shall only be appointed for one year.

(4) Vacancies in unexpired terms shall be filled in the same manner as original appointments are made.

(5) The committee shall meet at least quarterly, and at other such times as the Director may designate. Five members of the committee shall constitute a quorum.

(6) Members of the committee shall not be compensated for their time but shall be allowed travel and per diem expenses at the same rate paid to state employees, to be paid from the Alabama Home Inspectors Registration Fund.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed March 20, 2019; effective _____.

355-17-1.16 **Duties of the Committee.**

(1) The committee shall do the following:

(a) Advise the Director on all aspects of the Home Inspector and EIFS Inspector licensing process and requirements.

(b) Review continuing education requirements and recommend changes and areas of focus.

(c) Review complaints against licensed or unlicensed Home Inspectors and EIFS Inspectors. The committee shall determine whether complaints are trivial, frivolous, or not made in good faith.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed March 20, 2019; effective _____.

~~170-X-24-.13~~ **355-17-1.17** **Violations of The Act, Initiation of Proceedings.**

(1) The Director may initiate such actions as he or she deems appropriate to investigate and determine compliance by Home Inspectors, and EIFS Inspectors, and unlicensed inspectors with the provisions of the Act and the rules of the Building Commission Division of Construction Management. The Director retains authority to initiate all such proceedings as he or she deems appropriate and which are authorized by law.

(2) The Director may also ~~take action~~ act where initiated by an aggrieved party to a transaction involving a licensed inspector or by the Attorney General of the State of Alabama.

(3) For complaints against inspectors not licensed in Alabama any person may be an aggrieved party and complaints may be made anonymously. For complaints against licensed Alabama Home Inspectors and EIFS Inspectors, only the purchasers of the inspection may be an aggrieved party and the complainant must sign and affirm that the allegations in the complaint are true to the best of his or her knowledge.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.14~~ 355-17-1.18 Complaint Procedure.

(1) In the event a complaint is filed against a licensee or if the Director determines from other information that an investigation is necessary, the procedure for investigation of the complaint shall be as follows:

(a) The complaint shall be sent to the Home Inspector Advisory Committee. The committee shall review the complaint and determine whether it is trivial, frivolous, or not made in good faith within 30 days of the Director receiving the complaint.

~~(a) Upon undertaking an investigation of a licensee, the Director shall notify the licensee of investigation and the charges being investigated.~~

(b) Valid complaints shall be investigated by an investigator selected by the Director. Within 60 days of the Director receiving a complaint the investigator shall inform the Director as to whether probable cause exists for the Division of Construction Management to initiate formal disciplinary proceedings, or to forward any necessary information to the appropriate governmental authorities. No member of the Home Inspector Advisory Committee, an investigator, or any other individual associated with the investigation, shall communicate any information to the Director concerning the facts, merits, or substance of the investigation. If the Home Inspector Advisory Committee or the investigator determines upon its investigation that no probable cause exists, the proceedings will terminate.

~~(b) The Director shall designate individuals to serve on an Investigative Committee. This Investigative Committee shall conduct an investigation of the complaint.~~

~~(c) At the end of the investigation, the Investigative Committee shall inform the Director as to whether probable cause exists for the Building Commission to initiate formal disciplinary proceedings, or to forward any necessary information to the appropriate governmental authorities. No member of the Investigative Committee, or any other individual associated with the~~

~~investigation, shall in any way communicate any information to the Director concerning the facts, merits or substance of the investigation. If the Investigative Committee determines upon its investigation that no probable cause exists, the proceedings will terminate.~~

(2) In the event the investigator ~~Investigative Committee~~ determines that probable cause exists to initiate formal disciplinary proceedings, the investigator ~~Investigative Committee~~ shall ~~so~~ notify the Director. The Director shall thereafter schedule a proposed hearing date to be held within three months from the Director's receipt of the investigator's report.

(3) Notice shall be mailed certified mail, return receipt requested, to the most recent address of the licensee on file with the ~~Building Commission~~ Division of Construction Management. In the event the notice is refused, or the return receipt has not been received by the ~~Building Commission~~ Division of Construction Management at least 10 days before the proposed hearing date, the licensee may be served by mailing a copy of the notice first class mail at least seven days before the proposed hearing date. The notice shall include a notice of the proposed hearing date and the respondent's opportunity to request that the hearing be conducted. The notice shall otherwise substantially comply with Code of Ala. 1975, §41-22-12(b).

(4) A respondent may request in writing that the hearing be conducted. The request shall be submitted to the Director within 15 calendar days of the date of receipt of notice. Failure to request a hearing within the above time frame shall constitute a waiver of the opportunity for a hearing and shall cause the matter to be submitted to the Director for final action. Should the respondent request a hearing, the date of the hearing will be the proposed date established pursuant to subsection (2) above. Disciplinary Hearings will be conducted as described in Rule 355-17-1-.20 170-x-24-.16.

(5) Nothing contained herein shall be deemed to prohibit the informal disposition of any matter by stipulation, agreed settlement, consent order, default, or by another method agreed upon by the Director and the respondent in writing.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.15~~ 355-17-1.19 Pre-Hearing Discovery. Within a reasonable amount of time prior to the scheduled hearing, the parties shall exchange all documents to be introduced into evidence at the hearing. The hearing officer, or in the absence of a hearing officer the Director, shall make all other decisions concerning pre-hearing discovery when requested to do so by either party.

Author: Kippy Tate

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002.

~~170-X-24-.16~~ 355-17-1.20 Disciplinary Hearings.

(1) Conduct of Hearing.

(a) The Director, in his or her discretion and subject to applicable provisions of the Alabama Administrative Procedures Act, may appoint a hearing officer to hear the evidence and submit a report to the Director, including recommended findings of fact and conclusions of law.

(b) The respondent shall either admit or deny the charges set forth in the complaint.

(c) The hearing shall be conducted in a manner prescribed by the hearing officer, or, in the absence of a hearing officer, in a manner prescribed by the Director.

(d) The Director shall issue an order within 45 days after either the hearing is concluded. ~~if conducted by the Director, or the Director's receipt of the hearing officer's report, if the hearing was conducted by a hearing officer.~~ The order shall include findings of fact, official notice taken, and conclusions of law, stated separately. The parties shall be notified either personally or by certified mail, return receipt requested, of any order, and a copy of the final order shall be delivered and mailed to each party or to his or her attorney of record.

(2) Other. The hearing otherwise shall be conducted in compliance with the provisions of the Alabama Administrative Procedures Act.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective _____.

~~170-X-24-.17~~ 355-17-1.21 Discipline.

(1) Revocation and suspension of license and imposition of administrative fines. The Director may revoke or suspend the respondent's license and may impose and collect administrative fines not to exceed \$3,000 per violation of the Act or these rules:

(a) Upon a finding that the respondent has provided false information in an application;

(b) Upon a finding that respondent has violated the applicable Standards of Practice or Code of Ethics promulgated by the ~~Building Commission~~ Division of Construction Management;

(c) Upon a finding that any of the insurance coverages required in Rule 355-17-1.06 ~~170-X-24-.05~~ has ceased to be effective; or

(d) Upon a finding by the Director that the respondent has failed to comply with any requirement of the Act or these rules.

(2) Considerations. In determining whether a license should be revoked or suspended and the imposition of any fines, the Director shall consider all the relevant factors, including, but not limited to, the following:

- (a) The severity of the offense;
- (b) The danger to the public;
- (c) The number of repetitions of offenses;
- (d) The length of time since the date of violation;
- (e) The number of complaints filed against licensee;
- (f) The licensee's experience;
- (g) The actual damage, physical or otherwise;

- (h) The deterrent effect of the penalty imposed; and
- (i) Any other mitigating or aggravating circumstances.

(3) Surrender of License. Upon the Director's revocation or suspension of a license, the licensee promptly shall surrender to the Director the license certificate issued to the licensee.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002. **Amended:** Filed March 20, 2019; effective

~~170-X-24-.18~~ 355-17-1.22 Appeal. A licensee whose license has been revoked, suspended or who otherwise has been the subject of a final disciplinary action may appeal the Director's order to the Circuit Court of Montgomery County, or such other proper venue as disclosed in Code of Ala. 1975, §41-22-20(b). Any such licensee must file with the Director's written notice of his intention to appeal within ten days of receipt by the licensee of the Director's final order and must file a petition for judicial review in the appropriate court within 30 days after filing the notice of appeal with the Director.

Author: Kippy Tate

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.; 41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective October 28, 2002.

~~170-X-24-.19~~ 355-17-1.23 Reinstatement of License After Revocation or Suspension. Any licensee whose license has been revoked or suspended may apply to the Director for reinstatement of the license at any time. In the application for reinstatement, the applicant shall state why the license should be reinstated and shall specifically set forth any change in circumstances that would justify reinstatement. The application for reinstatement must include evidence that the applicant meets all the current licensure requirements and, unless excused by the Director, the applicant must qualify for licensure through all the procedures, including written examination, for initial licensure.

Author: Kippy Tate

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002.

~~170-x-24-20~~ 355-17-1.24 **Temporary Restraining Orders and Other
Injunctive Relief.** Upon receipt of evidence that a licensed Home
Inspector or EIFS Inspector has violated or is about to violate the
Act or the rules of the ~~Building Commission~~ Division of Construction
Management, the Director may petition the Circuit Court of the county
in which the violation occurred or is about to occur to issue a
temporary restraining order or other appropriate injunctive relief
enjoining such violation.

Author: Frank Barnes

Statutory Authority: Code of Ala. 1975, §§34-14B-1, et seq.;
41-9-140, et seq.

History: New Rule: Filed September 23, 2002; effective
October 28, 2002. **Amended:** Filed March 20, 2019; effective
