

ALABAMA BOARD OF
HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS
ADMINISTRATIVE CODE

CHAPTER 440-X-3
LICENSING AND FEES

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<u>440-X-3-.01</u>	<u>Requirements For Licensing Of Certified Contractors.</u>

(1) All certified contractors shall have and maintain a current license issued by the Board. A license is current only during the calendar year in which it is issued and shall expire on December 31 of each year. Unless renewed, a license shall automatically lapse at the end of the calendar year in which it was issued.

(2) Certification by the Board is required for all persons employed by realty management companies who manage property owned by others if they perform heating, air conditioning or refrigeration installation, service, or repair work.

(3) Certification by the Board is also required for work involving air duct cleaning services, filter changing services test and balance services, replacement of air filters or filter media, and the cleaning of heating, air conditioning or refrigeration equipment or systems.

(4) Certification by the Board is also required for heating and air conditioning installation, service, or repair work performed on site in manufactured or modular homes.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §§34-31-19, 34-31-26.

History: Filed February 21, 1991. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

Ed. Note: Rule No. 440-X-3-.01 entitled "Distinction Between Installation and Service Repair" filed September 30, 1982. Repealed and new rule entitled "Registered Contractor" adopted in lieu thereof: Filed September 21, 1987. Repealed and new rule entitled "Failure to Renew Before March 1" adopted in lieu thereof: Filed July 12, 1988. Repealed and new rule entitled "Failure to Renew" adopted in lieu thereof: Filed February 21, 1991.

440-X-3-.02 Filing Requirements. All applications for licensing with the Board, including annual renewals and all other submissions to the Board required by these rules, shall be deemed filed when received by the executive director or his designee. The executive director or his designee may reject all applications for licensing and annual renewals that are inaccurate, incomplete or for which all fees and pending administrative fines have not been paid at the time the application or renewal is filed.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-26.

History: Filed July 12, 1988. **Amended:** Filed February 21, 1991.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.03 Form Of Licensing.

(1) Licenses shall be issued only to those persons or legal entities who have properly submitted their applications to the Board under Alabama law and the Rules and Regulations of the Board, and who have taken and passed the Board's written examination on the Board's practical examination as provided in Alabama law.

(2) Any individual applying for a heating and air conditioning license applying for a license must personally satisfy all licensure requirements before issuance of the license as certified contractor by the Board.

(3) Any person or legal entity applying for a Refrigeration license must satisfy all licensure requirements before issuance of a license as a certified refrigeration contractor by the Board.

(3) All applicants for certified contractor status and all annual renewals shall provide a performance bond in the amount of Fifteen Thousand Dollars (\$15,000.00) to the Board.

(4) Any applicant for certification by the Board who proposes to engage in the business of Heating and Air Conditioning installation, service, or repair as a partnership, corporation, business trust, or other legal entity must apply through a person in responsible charge as defined by Alabama law and the Rules and Regulations of the Board. The application to the Board shall provide the name of the partnership and its partners, the name of the corporation and its officers and directors, the name of the business trust and its trustees, or the name of any other legal entity and its members. The application to the Board shall establish that the person in responsible charge under Alabama law and these Rules and Regulations is legally qualified to act for the business organization in all matters connected with its heating, air conditioning installation, service, or repair business. The heating and air conditioning certification by the Board issued upon such application described in this Rule shall be issued in the name of the person in responsible charge and shall include the name of the business organization engaged in the heating, air conditioning installation, service, or repair business.

(5) Any applicant for certification by the Board who proposes to engage in the business of Refrigeration installation, service, or repair as a legal entity must apply through a person in responsible charge as defined by Alabama law and the Rules and Regulations of the Board, and has met the qualifications to be a

certified contractor. The application to the Board shall provide the name of the partnership and its partners, the name of the corporation and its officers and directors, the name of the business trust and its trustees, or the name of any other legal entity and its members. The application to the Board shall establish that the person in responsible charge under Alabama law and these Rules and Regulations is legally qualified to act for the business organization in all matters connected with its Refrigeration installation, service, or repair business. The certification by the Board issued upon such application described in this Rule shall be issued in the name of the business organization engaged in the refrigeration installation, service, or repair business.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §§34-31-28; 34-31-30; 34-31-226.

History: Filed July 12, 1988. **Amended:** Filed June 9, 1999; effective July 14, 1999. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.04 **Exemptions.** The licensing requirements for certified contractors do not apply to the following:

(1) Retail sellers of heating, air conditioning or refrigeration systems who does not provide installation of said systems, or provides for the contracting for the service, repair or installation of said systems;

(2) Heating and air conditioning installation, service or repair work performed by an owner of a building on said building owned by him or her;

(3) Heating and air conditioning installation, or service and repair, performed by anyone who is regularly employed as a maintenance person incidental to and in connection with the business in which he is employed, provided said heating and air conditioning work is done on the premises of said owner, and repair-person does not engage in heating and air conditioning work for others.

(4) In instances where a certified heating and air conditioning contractor bids installation work and is responsible for obtaining all necessary and required permits, the certified contractor may subcontract the installation of duct work to an uncertified person who is performing the work under the supervision of the certified contractor as the person in

responsible charge. The certified contractor is responsible for all such work performed and is considered by the Board as the person in responsible charge for such work should the work fail to meet the minimum standards under these Rules. This exemption does not apply to design and installation of duct work not performed under the responsible supervision of a certified contractor.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-18.

History: Filed July 12, 1988. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.05 Failure To Renew License.

(1) Any certified contractor who does not renew his certification at the end of a calendar year and who remains unlicensed for a period of one calendar year or more shall be required to apply as a new applicant and will be required to pass the written examination offered by the Board.

(2) Any certified contractor who has previously passed the written examination but has not renewed his certification at the end of a calendar year shall have until December 31 of the calendar year following lapse of certification to renew his certification without additional testing by the Board. However, additional fees will be imposed.

Example (1) Certified contractor Jones holds an active certification for the year of 2002. On December 31, 2002 his certification lapsed. The Board receives his accurate and complete renewal form for 2003 on February 15, 2003, along with a check for \$265.00: \$165.00 active renewal fee, \$100.00 late fee.

(3) Any certified contractor who wishes to renew their certification on or after March 1st and prior to April 1st of the calendar year following the lapse of certification shall be required to pay a penalty fee in addition to any other late fees established by the Board.

Example (2) Certified contractor Smith holds an active certification for the year of 2002. On December 31, 2002 his certification lapsed. The Board receives his accurate and complete renewal form for 2003 on March 15, 2003, along with a check for \$515.00: \$165.00 active renewal fee, \$100.00 late fee, and \$250.00 penalty fee.

(4) Any certified contractor who wishes to renew their certification on or after April 1st of the calendar year following the lapse of certification shall be required to pay a delinquent fee in addition to all late and penalty fees established by the Board.

Example (3) Certified contractor Brown holds an active certification for 2002. On December 31, 2002 his certification lapsed. The Board receives his accurate and completed 2003 renewal form on April 15, 2003, along with a check for \$1,015.00: \$165.00 active renewal fee; \$100.00 late fee, \$250.00 penalty fee and \$500.00 delinquent fee.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §§34-31-25; 34-31-26.

History: Filed July 12, 1988. **Repealed and replaced with new rule** (same title): Filed February 13, 1992. **Repealed and New**

Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.06 Alternative Methods Of Testing By The Board.

After an individual has taken the written examination without achieving a passing examination score, an individual, upon specific written request to the Board, will be given an opportunity to take a practical examination equivalent to the written examination. This practical examination shall be held within six months from the date of the applicant's first or latest unsuccessful written examination if requested by the applicant.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-28.

History: Filed July 12, 1988. **Amended:** Filed November 29, 1990. **Amended:** Filed December 1990; February 21, 1991; August 18, 1993; effective September 22, 1993.

Amended: Filed July 28, 1994; effective September 1, 1994.

Amended: Filed November 5, 1996; effective December 10, 1996.

Repealed and New Rule: Filed April 9, 2003; effective May 14, 2003. **Amended:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.07 Certification Of Refrigeration Contractors By Grandfathering. All legal entities engaged in the refrigeration business must submit an application and appropriate fees to the board in order to receive a refrigeration contractors license.

(a) All legal entities engaged in the refrigeration business for a period of two years prior to August 1, 2009, will be eligible to apply to the board for a certified refrigeration contractor license without standing for a written examination.

(b) The applicant shall provide evidence of such experience to the board and applicant will have until December 31, 2011, to apply for such certification without standing for a written examination. Beginning on January 1, 2012, all applicants for a refrigeration contractors license must stand for the written examination testing experience and ability.

(c) An applicant will be deemed to have sufficient experience in the refrigeration business only if they have been engaged in the refrigeration business for a period of two years prior to August 1, 2009 and provides the documentation requested below:

1. The applicant submits documentation to the board proving that the name or the trade name of the applicant, or its responsible in charge, currently holds or held an occupational license as a refrigeration contractor issued by the State Board of General Contractors prior to August 1, 2009; and/or,

2. The applicant submits documentation to the board proving that the name or the trade name of the applicant, or its responsible in charge, currently holds or held a business or occupational license as a refrigeration contractor issued by a county or municipality prior to August 1, 2009; and/or,

3. The applicant submits documentation to the board proving that the name or trade name of the applicant, or its responsible in charge, currently holds or held a permit issued by the Alabama Department of Labor prior to August 1, 2009; and/or,

4. The applicant submits to the Board sworn statements signed by the owner(s) of the property attesting to the fact that the applicant was in fact responsible for the service, maintenance or installation of the refrigeration system performed for a period of two years, prior to August 1, 2009; and/ or,

5. Provides a copy of a Universal, Type II or Type III refrigerant card issued by the Environmental Protection Agency which was issued, and has been held for a period of two years, prior to August 1, 2009.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-28(b).

History: Filed July 12, 1988. **Amended:** Filed February 21, 1991. **Amended:** Filed August 18, 1993; effective September 22, 1993. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Repealed and New Rule:** Filed April 9, 2003; effective May 14, 2003. **Repealed and New Rule:** Filed August 14, 2009; effective September 18, 2009.

440-X-3-.08 **Procedure In The Event Of A Loss Of Certified Contractor.**

(1) In the event a certified contractor in responsible charge leaves by termination, layoff, or voluntary resignation a partnership, corporation, business trust, or other legal entity operating under the certification of the certified contractor, the certified contractor shall notify the Board within ten (10) days of the termination, layoff, or voluntary resignation.

(2) In the event of the death of a licensed certified contractor, the Board shall be notified within ten (10) days by any partnership, corporation, business trust, or other legal entity operating under the certification of the certified contractor as the person in responsible charge. These business entities may be allowed to complete work that was in progress at the time of the death of the certified contractor. These business entities shall not enter into any new contracts, verbal or written, or engage in the installation or service and/or repair of any heating, air conditioning or refrigeration systems, unless under the direction of a certified contractor in responsible charge of the installation, service, or repair of the heating, air conditioning or refrigeration systems. Once a certified contractor has been selected, the business entity must notify the Board of such selection.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §§34-31-18; 34-31-32.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.09 **Person In Responsible Charge And Obligations Of Person In Responsible Charge.**

(1) The person in responsible charge must direct the projects involving the installation or service and repair of heating, air conditioning or refrigeration systems under Alabama law. The person in responsible charge must be a full-time employee, owner, partner, or corporate officer of the

partnership, corporation, business trust, or other legal entity. This person in responsible charge must possess the requisite skill, knowledge, and experience and have the responsibility to supervise, direct, manage, and control the installation, service, or repair activities of the business entity with which he is affiliated. The Board shall examine the technical and personal qualifications of the person in responsible charge and may investigate and/or examine that person's qualifications.

(2) If the person in responsible charge of a business entity desires to qualify an additional business entity as being under his certification with the Board, that person is required to appear at a meeting of the Board and present evidence of ownership, ability to supervise, direct, manage and control that business entity. The person in responsible charge must also present evidence at or before this Board meeting of his financial responsibility for the additional business entity. The person in responsible charge shall also pay an additional licensing fee to the Board for this additional business entity and shall provide a bond in the amount required for certified contractors under these Rules. It is entirely within the Board's discretion to allow or disallow the additional business entity to be certified under the certified contractors responsible charge.

(3) The certified contractor is responsible for all electrical and gas piping work performed on residential property or light commercial, up to ten (10) tons cooling capacity, and is considered by the Board as the person in responsible charge for such work should the work fail to meet the minimum standards under these Rules.

Authors: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-18.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.10 Fees And Charges.

(1) The following fees and charges have been established by the Board effective January 1, 2019.

- (a) Written examination fee to defray costs of testing \$150.00
- (b) Practical examination fee to defray costs of testing \$350.00

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(c)	Initial Fee for Certification of a Heating & Air Conditioning License	\$190.00
(d)	Annual Renewal Fee for Active Heating & Air Conditioning Certification	\$190.00
(e)	Initial Fee for Certification of a Refrigeration License	\$190.00
(f)	Annual Renewal Fee for Active Refrigeration Certification	\$190.00
(i)	Late fee for active certification renewal received after December 31 and prior to March 1	\$100.00
(ii)	Penalty fee for renewal received on or after March 1 and prior to March 31 (in addition to late fee)	\$250.00
(iii)	Delinquent penalty for renewal received on or after April 1 (in addition to late and penalty fee)	\$500.00
(g)	Annual renewal fee for Inactive Heating and Air Conditioning Contractors	\$ 95.00
(h)	Annual Renewal Fee for Inactive Refrigeration Contractors	\$ 95.00
	(Inactive contractors are not eligible to purchase local licenses or permits until the inactive contractor returns to an active certified contractor status and meets all requirements for licensing as an active certified contractor, including payment of the proper fee(s))	
(i)	Late fee for the renewal of inactive status received after December 31 and prior to March 1	\$ 50.00
(ii)	Penalty fee for renewal received or after March 1 and prior to March 31 (in addition to late fee)	\$250.00
(iii)	Delinquent penalty for renewal received on or after April 1 (in addition to late and penalty fees)	\$500.00

(i)	Issuance of Replacement Certification Cards	\$ 25.00
(j)	Administrative fee for continuing education deficiency plan	\$ 25.00
(k)	Dishonored check fee	\$ 30.00
(l)	Continuing Provider Application Fee	\$ 75.00
(m)	Continuing Education Course Fee	\$ 25.00
(n)	Continuing Education Instructor Fee	\$ 25.00
(o)	Non-Traditional Continuing Education Application	\$ 25.00
(p)	Apprentice Registration for Heating & Air Conditioning or Refrigeration	\$ 25.00
(q)	Apprentice Registration Late Fee (If received by the Board later than December 31)	\$ 50.00
(r)	Duct Air Tightness Testing Contractor Registration Fee	\$ 50.00
(s)	Duct Air Tightness Testing Contractor Registration Late Fee	\$ 50.00
(t)	Re-issuance of list or stolen certification cards or registrations	\$ 25.00

(2) Examination fees to defray the costs of testing are in addition to the fees required for initial certification, renewals, inactive contractor status, and the penalty for late renewals.

(3) All fees established by the Board shall be submitted with the application for examination to become certified with the Board, and no part of said fees shall be refunded. These fees shall be received by the Board and held for the purpose of paying the expenses associated with processing the application and to pay the expenses associated with testing.

Authors: Jeffery Becraft, Kathy S. LeCroix

Statutory Authority: Code of Ala. 1975, §§34-31-24, 34-31-25.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

Amended: Filed October 13, 2015; effective November 17, 2015.

Amended: Filed September 11, 2018; effective October 26, 2018.

440-X-3-.11 **Replacement Licenses.** The Board shall issue a replacement license for a certified contractor who submits a written, sworn, and notarized statement to the Board that includes information establishing the following:

(1) That the certified contractor's current license has been stolen, taken, lost, destroyed, or defaced; or

(2) That the certified contractor's name has been changed by marriage or court order. If the certified contractor seeks issuance of a replacement licensed to accommodate a name change, the originally issued certification card must be returned to the Board as a condition of the issuance of the new certified contractor card.

Author: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-27.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.12 **Dishonored Checks.** If the Board receives a check that has been dishonored by the financial institution that is was drawn on, the Board may charge a dishonored check fee as set by the Code of Alabama and established by these regulations. Pursuant to Code of Alabama 1975, § 8-8-15, this fee must accompany any check, or other negotiable instrument drawn on a bank or other depository institution and made payable to the Board, if the instrument is not paid or is dishonored by the institution. The Board may suspend the certified contractors license until such time this fee, including the amount of the dishonored check, has been received by the Board.

Author: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §8-8-15.

History: New Rule: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.13 **Building Official Waiver.**

(1) Any building official or mechanical inspector who holds an inactive heating and air conditioning license and/or refrigeration license, or who has sat for and passed the examination for certification shall not be required to submit

payment of fees for an inactive certification if they meet one of the following requirements:

(a) Maintaining International Code Council certification as a certified:

1. Residential Mechanical Inspector,
2. Commercial Mechanical Inspector,
3. Mechanical Inspector,
4. Certified Mechanical Code Official,
5. Master Code Professional,
6. Mechanical Inspector (Uniform Mechanical Code),
7. State Mechanical Inspector CMC.

(b) Contractor must submit proper form prescribed by the Board along with documentation of certification listed in (a) 1-7 above.

(2) If at any point the building official wants to become an active heating and air conditioning and/or refrigeration certified contractor, they will be required to submit the appropriate forms as well as pay the full active certification fee for the remainder of the year and each year they hold active certification with the board.

Authors: Jeffrey Becraft, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-28(d); Act No. 2009-486.

History: New Rule: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.14 Apprentice Registration For Heating, Air Conditioning And/Or Refrigeration.

(1) A person who is not yet a certified heating, air conditioning, or refrigeration contractor, and is engaged in learning and assisting in the installation, service or repair of a heating, air conditioning, or refrigeration system may apply to become a heating and air conditioning apprentice and/or refrigeration apprentice. Each apprentice registration for heating & air conditioning or refrigeration is an independent

registration and must be held separately. Annual renewal of a registration is required.

(2) All persons who hold an apprentice registration for a period of two years prior to applying for examination to obtain a certified contractor's license will be automatically eligible to sit for the examination if their registration has been renewed annually. To meet the requirements to become an apprentice, a person must present one of the following criteria listed below:

(a) Completes an affidavit provided by the Board and signed by the active certified contractor stating that the applicant is working under the supervision of a certified heating and air conditioning contractor or refrigeration contractor and submits this form to the Board; or

(b) Submits an Employer's Verification of Work History form obtained from the Board.

Author: Mark Montiel, Kathy LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-27.

History: New Rule: Filed April 9, 2003; effective May 14, 2003.

Amended: Filed August 14, 2009; effective September 18, 2009.

440-X-3-.15 Background Checks.

(1) The Board may require each applicant to provide a background check prior to submitting an application for examination. Once their background check has been completed and reviewed by the Board, all further documents will be reviewed to determine a candidate's fitness to sit for examination.

Authors: Jeffrey Becraft, Kathy S. LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-21(a); Act No. 2009-486.

History: New Rule: March 6, 2013; effective April 10, 2013.

Amended: Filed October 13, 2015; effective November 17, 2015.

440-X-3-.16 Duct Air Tightness Testing Contractor Registration.

(1) The Duct Air Tightness Testing (DAT) Contractor Registration is for individuals who perform duct leakage and duct tightness testing on heating and air conditioning systems in conjunction with energy code compliance as required by the International Energy Conservation Code or the Alabama Residential

Energy Code Board. Each Duct Air Tightness Testing Contractor is an independent Registration. Renewal of the DATT Registration is required annually.

(2) Any individual applying for a Duct Air Tightness Contractor Registration must complete their registration on a form prescribed by the Board and will be issued a separate registration. Prior to being issued a registration, he or she must first provide proof that they successfully completed one of the following approved programs:

(a) Home Builders Association of Alabama Qualified Credentialed Air Tightness Verifier (QCATV),

(b) Building Performance Institute Building Analyst Training (BPI Energy Auditor),

(c) Residential Energy Services Network Home Energy Rating System (RESNETHERS Rater).

Authors: Jeffrey Becraft, Kathy S. LeCroix

Statutory Authority: Code of Ala. 1975, §34-31-24(4)(1); Act No. 2015-169.

History: New Rule: Filed October 13, 2015; effective November 17, 2015.