



Board Member Retires After 23 Years



John Manuel

John Manuel, the Home Builders Licensure Board representative for Congressional District One, has retired after 23 years of service for the Board and the housing consumers of the State of Alabama. Mr. Manuel was originally appointed by Speaker of the House, Jimmy Clark, in 1995 and was reappointed every three years by Speakers Clark, Seth Hammett, and Michael Hubbard. John Manuel provided excellent leadership and was a steady and knowledgeable fixture on the Board during its formative years, through multiple law changes, economic down turns and staff changes. Mr. Manuel has owned and operated Manuel Masonry

Contracting since 1971 and worked on many well-known projects such as Hank Aaron Stadium, Hampton Inn, and scores of residential structures. He was voted minority contractor of the year for 1999 and served as the Board's Vice Chair 2005-2008 and as Chairman of the Home Builders Licensure Board 2009-2012.

Mr. Manuel has been a long-term contributor to his community through his work with youth development organizations and as the building committee chairman and supervisor of construction of New Shiloh Baptist Church in Mobile, Alabama. He has also served two terms as President of the Mobile Mardi Gras Association. ▲

What YOU Need to Know About Changes to the Home Builders Licensure Law

You may have heard some lumber-yard talk about changes to the law. Forget the rumors ~ here are the facts. As of May 1, 2018:

- The definition of residential home builder now includes "a residential roofer when the cost of the undertaking exceeds \$2,500." (Ala. Code § 34-14A-2(11).) ***Roofers licenses are not yet being issued by the Board. Please read the article on page 3 regarding the roofers license for additional critical information.***
- Advertising to do work requiring a home builders license is proof of acting as a home builder. (Ala. Code § 34-14A-2(11).) This change will greatly assist the Board in locating and bringing action against unlicensed builders.
- An improvement is defined as "any site-built addition or enhancement attached to or detached from a residence" and is clearly a part of the residence. (Ala. Code § 34-14A-2(4).) This means that builders of detached garages, pool houses, workshops, outdoor kitchens, etc., will be required to hold a home builders license when the total cost of the job exceeds \$10,000.
- The Board is authorized to collect the cost of holding a disciplinary hearing when the licensee is found guilty at the hearing and is disciplined by the Board. (Ala. Code § 34-14A-8(h).)
- The homeowner exemption is not transferable. (Ala. Code § 34-14A-6(e).) A homeowner cannot transfer their homeowner exemption from holding a home builders license to anyone. A person that they hire to perform work that would require a license, including overseeing or supervising the job, must hold the required license.

(Continued on page 2)

What You Need to Know About Changes to the Home Builders Licensure Law

(Continued from page 1)

- The maximum amount the Board may fine per disciplinary charge increased from \$2,000 to \$5,000. (Ala. Code § 34-14A-8(a).)
- If the Board pays out of the Homeowners' Recovery Fund on behalf of a licensee, the licensee's license may be revoked and the qualifications and experience of the licensee or the licensee's qualifying representative may no longer be recognized for licensing purposes. The former licensee and the former licensee's qualifying representative must repay the fund before a license will be issued. (Ala. Code § 34-14A-15(e).) What this means is that if the Board pays out of the Fund on a claim against a licensee, it may revoke the license AND the qualifications and experience of the licensee are no longer valid. If the licensee is a corporation or limited liability company, the license may be revoked and the qualifications and experience of the designated qualifying representative are no longer valid. The licensee, whether it is an individual or a corporation, must repay the Fund before a license will be issued. The designated qualifying representative cannot be issued an individual license or be a designated qualifying representative until the Fund is repaid. The designated qualifying repre-

sentative may repay the Fund if the licensee does not repay the Fund.

- Licensees who are performing work that complies with programs to enhance resiliency of structure (fortified housing, etc.) are required to disclose in writing to a homeowner prior to commencing work that the work will comply with those programs. (Ala. Code § 34-14A-7(g).) Often a homeowner is not informed that the work will meet fortified housing requirements until sometime after construction has begun. Without being informed prior to construction beginning, the homeowner is unable to meet the requirements (documenting various phases of work, etc.) to obtain available grant money or other financial benefit due to the homeowner.

Be on the lookout for further notice about changes to the law. It's up to you to be in compliance. ▲

Do Yourself a Favor – Make sure you're licensed the way you enter into contracts. See the Legal Compliance Corner on page 6.

Building Officials: Our Most Valuable Players

By Darlene Burt

The goal of building officials and the Home Builders Licensure Board (hereinafter "Board") is to promote public health, safety, and welfare. As a team, the shared goal of protecting consumers from unlicensed builders can be reached. No consumer wants to be blindsided by an unlicensed builder. The building inspections department is the first line of defense. The quickest way to sack an unlicensed builder is to deny the permit and report the unlicensed activity to the Board.

Let's have a quick huddle to review the play. The defense checks the permit application to ensure that the name on the application is the same as on the licensure card. If the applicant is a general contractor, the defense ensures that the license number is 18908 or below. If the applicant is claiming the homeowner exemption, the defense reminds them that the exemption does not apply to their subcontractors. To avoid a flag on the play, the Board suggests getting a list of subcontractors and checking their licensure status.

When the offense (Board) receives reports of unlicensed builder activity, its string of investigators is called in to gather evidence. Once the investigation is complete, the Board's attorney calls the play. The Board can currently fine the unlicensed builder up to \$2,000 or pursue criminal prosecution. Be on the lookout for upcoming changes in the law. If prosecuted, the unlicensed builder can face up to \$6,000 in fines and one year in jail. Visit our website at www.hblb.alabama.gov/disciplinary-actions/ for a list of recent prosecutions. To report unlicensed builder activity, call Darlene Burt at 800-304-0853 ext. 232. ▲



New License for Residential Roofers

By J. Seth Gowan, Deputy Attorney General

Since enacted in 1992, the Home Builder Licensure Law has not seen real significant changes until the 2018 regular session of the Alabama Legislature. From the various housekeeping measures to changes in the law governing the Homeowner's Recovery Fund, none will be more impactful for consumer protection than the new license requirements for residential roofing.

The legislation sponsored by Senator Steve Livingston and Representative Steve McMillan was signed into law by Governor Kay Ivey on February 27, 2018, as Act Number 2018-143. The new residential roofing provisions are a culmination of discussions and collaboration among leaders in the homebuilding industry, the insurance industry, the Board and legislative leaders to provide more protections for homeowners.

All agree that when someone who is not qualified does things incorrectly repairing or replacing a roof, this can and will lead to serious damage to a home and homeowner. This is especially a problem following severe weather outbreaks in the state. Roofs that are replaced or repaired incorrectly following these storms result in more damage to the residence, cost the homeowner more money and heartache and ultimately harm all consumers because of the negative impact on the insurance market.

"The consequences of a roof not being put on correctly can be traced all the way to the foundation of the home in some instances," said Chip Carden, Executive Director of the Home Builders Licensure Board. "That seven thousand or eight thousand-dollar roof replacement that happens to not be flashed correctly will result in water damage to the interior of the house every time. It can very quickly become a structural disaster to the point the home is uninhabitable."

The law now defines residential roofer and sets a threshold at \$2,500 for when a license is required for installing or repairing a residential roof. The Board already had regulatory authority to issue more than one type of license (limited, unlimited), and the changes to the Act have codified this authority to issue licenses based upon scope of work, variance in requirements to get a license and cost of the undertaking.

"The consequences of a roof not being put on correctly can be traced all the way to the foundation of the home in some instances,"

*- Chip Carden,
Executive Director of
the Home Builders
Licensure Board.*

(11) RESIDENTIAL HOME BUILDER. 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). Notwithstanding the foregoing, the term includes a residential roofer when the cost of the undertaking exceeds two thousand five hundred dollars (\$2,500). Nothing herein shall prevent any person from performing these acts on his or her own residence or on his or her other real estate holdings. Anyone who engages or offers to engage in any acts described in this subdivision, through advertising or otherwise, shall be deemed to have engaged in the business of residential home building.

(12) RESIDENTIAL ROOFER. A person that installs products or repairs surfaces on the external upper covering of a residence or structure that seals, waterproofs, or weatherproofs the residence or structure.

Section 34-14A-2(11) and (12), Code of Alabama, 1975, 2018

(Continued on page 5)

Limited License Codified

By J. Seth Gowan, Deputy Attorney General

Since September 29, 2011, the Board has had the authority through its administrative regulations to issue limited licenses to residential homebuilders who only perform a single trade and/or the work does not affect the structural integrity of the residence. In other words, if a residential homebuilder enters into contract with the homeowner to install vinyl siding and the cost of the undertaking is over \$10,000, then the licensee would only be required to have a limited license.

However, if a residential homebuilder enters into contract with the homeowner to do the framing of a residence and the cost of the undertaking is over \$10,000, then the homebuilder would be required to have an unlimited license because the work affects the structural integrity of the residence. The key questions regarding limited versus unlimited license have always been: cost of the undertaking, single or more than one trade performed, and structural or non-structural. In fact, if you have recently visited your local building department, you may have seen a similar poster to the one with this article.

There is also a distinction made between the limited and unlimited licenses regarding requirements for license. For

those seeking a limited license for a single trade, the applicant or applicant designated qualifying representative for a partnership, corporation or limited liability company, may satisfy the experience and ability requirement without having to take and pass the two-part examination. For those seeking an unlimited license, the applicant or applicant designated qualifying representative must take and pass the two-part examination.

The regulatory authority dealing with types of license was codified with changes to the Home Builders Licensure Law when passed by the Alabama Legislature and signed into law by Governor Kay Ivey during the 2018 regular session.

The new changes go into effect May 1.

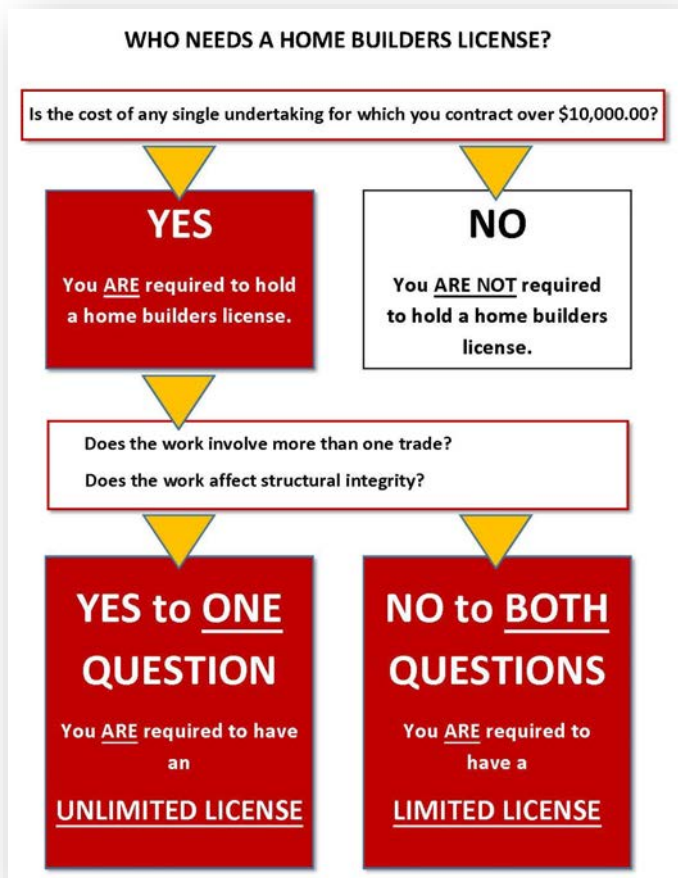
The underlined portions of the law are new.

- (1) All residential home builders shall be required to be licensed by the Home Builders Licensure Board annually. The board may issue more than one type of license.
- (2) The board may issue licenses that vary in scope of work authorized, including, but not limited to, licenses without and with limitation.
- (3) The board may issue licenses that vary in requirements for licensure, including, but not limited to, evidence of experience and ability and financial responsibility, as determined by the cost of the undertaking.
- (4) The board may charge varying fees for licenses.

Section 34-14A-5(a) Code of Alabama 1975, 2018

With the codified changes in place, the Board will have the clear legal authority and ability to offer new types of licenses in the coming years as the need arises within the residential home building industry. Specifically, the Board will soon be adopting new regulations and implementing enforcement in the coming months for a limited license of residential roofers. That limited license will be for homebuilders who only do work on residential roofs with the cost of the undertaking being over \$2,500.

These changes along with several others to the Home Builders Licensure Law will allow the Board to continue to protect Alabama consumers. The Board will be continuing to communicate with building officials, consumers, and licensees as changes to the law are implemented. Please contact the Board with any questions regarding the type of license you need or any questions about the new law. ▲



NEW LAW REQUIRES INSURANCE DISCLOSURE TO HOMEOWNERS

On June 1, 2018, a new law (Act No. 2018-398) will go into effect. The new law requires anyone meeting the definition of a residential home builder as defined in the Home Builders Licensure Law (Ala. Code § 34-14A-2(11)) to disclose in writing to the homeowner, before work begins, whether the home builder has obtained and is currently maintaining liability insurance. The written disclosure must be signed by the licensee and the homeowner, and attested by one witness selected by the homeowner.

Be aware that this law DOES NOT require licensees to carry insurance. It requires licensees to tell homeowners in writing whether they do or do not carry liability insurance. ▲

New License for Residential Roofers

(Continued from page 3)

The new roofing license will be a limited license consistent with the above definition. However, unlike current limited licenses there will not be a requirement of obtaining a credit report upon application and annual renewal. Instead, licensed roofers will be required to maintain bond coverage of \$10,000 for a license year, January 1-December 31. When a complaint is filed with the Board against a licensed residential roofer, the Board will investigate and determine what if any action the licensee must take to correct deficiencies or make a claim against the bond on behalf of the homeowner. Only the Board will be able to make the claim.

The new law is effective May 1, 2018. However, there will not be immediate enforcement of the roofing license law. Regulations will have to be written and adopted by the Board before implementation. New applications will have to be created. As the Board goes through that process, it will be communicating with licensees, building officials and consumers what is happening and when.

“Just because the law goes into effect May 1st, doesn’t mean we will be citing people for a violation on May 2nd,” added Carden. “It will take some time writing the regulations and getting notice out to everyone, roofers, building officials, suppliers, and consumers. The main thing is we will be able to take an important step to provide more consumer protection for homeowners.”

For more information about the new residential roofing requirements and other changes to the Home Builders Licensure law, please contact the Board or visit our website, www.hblb.alabama.gov. ▲

“Just because the law goes into effect May 1st, doesn’t mean we will be citing people for a violation on May 2nd,” added Carden. “It will take some time writing the regulations and getting notice out to everyone, roofers, building officials, suppliers, and consumers. The main thing is we will be able to take an important step to provide more consumer protection for homeowners.”



Builder Watch Hotline

1-800-304-0853

Protect Alabama Consumers and
Your Industry.

Report Unlicensed Builder Activity!

(All calls will remain anonymous.)

You've Got Mail from the HBLB...or Do You?

It is extremely important that the Board have the most recent mailing address and telephone number on file to communicate with licensees. By law, all licensees must promptly notify the Board of a new address and/or telephone number. The Board must be notified in writing. For convenience a change of address form can be found on the Board's website at www.hblb.alabama.gov/forms-and-notices/.

Not only is it important to provide the correct contact information, it's also important to accept communication from the Board. Be sure to pick up or sign for any certified mail that is delivered from the Board. It could be legal notification from the Board that requires a response. If certified mail is returned to the Board, then the notification is re-sent first class mail, and the Board will assume the licensee received it. It is much better to sign for the certified mail and be aware of what is going on, rather than to be surprised. ▲



HBLB Executive Director Chip Carden participates in press conference with Attorney General Steve Marshall to warn against home repair fraud following severe storms and tornadoes that caused extreme damage across areas of North Alabama on March 19, 2018.

All current disciplinary actions and unlicensed builder prosecutions can be found on the new and improved HBLB website at www.hblb.alabama.gov/disciplinary-actions/. All actions remain posted for a period of ninety (90) days. Inquiries pertaining to disciplinary actions and unlicensed builder prosecutions must be submitted in writing to the Home Builders Licensure Board, Legal Division, P O Box 303605, Montgomery, Alabama 36130-3605.



LEGAL COMPLIANCE CORNER

How are you licensed? How are you doing business? Two important questions you need to answer before undertaking or offering to undertake residential construction. The Board issues licenses to individuals, partnerships, corporations, limited liability companies (LLC), and not-for-profit organizations. Partnerships, corporations and LLCs are licensed through a designated qualifying representative (DQR) who meets the requirements for license. A residential homebuilder can only engage in residential homebuilding as they are licensed. In other words, if you are licensed individually, your written contract with the homeowner should be between you, individually, and the homeowner. If you have a licensed partnership, corporation or LLC, then the contract should be between the business entity and the homeowner. You cannot use your individual license to then do work through a partnership, corporation or LLC. Likewise, you cannot be licensed as one business entity and use that license to do work through another entity. If you do either of these, then that is unlicensed homebuilding. Unfortunately, these scenarios are common mistakes the Board discovers during investigations and will result in disciplinary action. How are you licensed? How are you doing business? If you are not sure, contact the Home Builders Licensure Board. ▲