

ON THE LEVEL

A Service of the
State of Alabama
Home Builders
Licensure Board
SPRING 2019



HOME BUILDERS
LICENSURE BOARD
www.hblb.alabama.gov



New Board Member Appointed in February

The Home Builders Licensure Board welcomes Michael C. Toles, Sr., as its most recent member appointed by House Speaker Mac McCutcheon on February 28, 2019. Mr. Toles fills the seat left vacant upon the retirement of John Manuel. Mr. Toles is a graduate of Troy University. He is a second-generation builder and is President of Toles Construction Co., Inc. in Montgomery. He has been a member of the Greater Montgomery Home Builders Association (GMHBA) since 1987, where he has served in various capacities with its Board of Directors, including serving as the 2006 GMHBA President. That same year, he received the GMHBA's Big Spike Award and Builder of the Year Award. At the state level, Mr. Toles has served on the Executive Committee of the Home Builders Association of Alabama (HBAA) for several years, chairing the Education, Regulatory Affairs, and Affordable Housing/Building Innovations Committees. He is currently serving as HBAA Treasurer. In addition to his work at the local and state levels, Mr. Toles serves as a director for the National Association of Home Builders (NAHB). He is also involved with other local organizations and currently serves on the Board of Directors for the Alabama Housing Finance Authority. ▲



Michael C. Toles, Sr.

HBLB Kicks Off Public Awareness Campaign

The Home Builders Licensure Board kicked off its first public awareness campaign by attending annual home shows organized and promoted by local Home Builders Association chapters in Montgomery, Birmingham, and Huntsville from February 1st - March 3rd. The home shows feature the latest residential products and services and attract thousands of prospective home buyers and remodeling consumers – the key targets for the Board's consumer protection awareness campaign. The Board's campaign aims to protect consumers from dishonest and unscrupulous contractors on future home improvement projects.

Additionally, Consumer Board Member and Public Awareness Committee Chairperson Peggy Turner has

spearheaded the Board's effort to increase consumer awareness of the benefits of using licensed contractors for their home improvement needs. The Board issued a Request for Proposal (RFP) for advertising services, received and evaluated the proposals, and awarded the contract to Stamp Idea Group, LLC of Montgomery, Alabama. The Board has committed \$50,000 to a three-month "Ask to See the Card" digital advertising push that will include a Facebook and Instagram imaging campaign coupled with targeted messages that will accompany Google, YouTube, and Bing searches for keywords. Digital advertising will enable the Board to optimize its resources to target those consumers actively seeking information on home improvement projects. ▲

HBLB Works with State EMA for Rapid Storm Response

Alabama has already seen more tornados in the first three months of 2019 than all of last year. On January 19, before the start of “tornado season,” Wetumpka and other Elmore County communities were hit by a tornado. Downtown Wetumpka businesses and residences received the most damage. The tornado path continued northeast across the county to Eclectic. The Board communicated with the State Emergency Management Agency that evening after the storm. In the following days, Board investigators coordinated with the Elmore County Emergency Management Agency and Wetumpka officials to make sure homeowners were aware of the importance of only hiring licensed builders and to assist local officials in preventing home repair fraud. Executive Director Chip Carden did an interview with WSFA news warning consumers about the perils of hiring unlicensed builders and providing tips for homeowners to follow during the repair and rebuilding phase.

<http://www.wsfa.com/2019/01/22/state-authorities-ward-off-home-building-scammers-wetumpka/>

By the end of the day on January 22, Board investigators had surveyed all the residential damage from the January 19th tornado and provided consumer information to homeowners.

On March 3, another tornado outbreak brought destruction to central and south Alabama, most notably, the massive tornado that struck the Bearegard and Smiths Station communities in Lee County where 23 people lost their lives. The massive EF-4 tornado had a mile-wide path and was on the ground to the Georgia border.

In the days leading up to the March 3 tornado outbreak, the Board tracked the possibility of residential flooding in areas of the Tennessee Valley, west Alabama along the Tombigbee River, and northeast Alabama in Cherokee County. The flooding was the result of several days of torrential rains that overwhelmed river systems in the state.

Eleven tornados were confirmed for March 3rd, stretching from Washington County in southwest Alabama to as far north as Coosa County and as far east as Barbour and Lee counties. Again, the Board communicated with State EMA the day of the storm outbreak. The next day, Board investigators were getting damage assessments from all counties with reported damage. At the direction of Lee County Sheriff Jay Jones and local officials, Board investigators remained on standby to assist in the search and recovery effort.

On March 15, Chip Carden joined Alabama Attorney General Steve Marshall, Lee County District Attorney Brandon Hughes, Sheriff Jones, and other Lee County leaders to warn consumers against home repair fraud.

<http://www.wsfa.com/2019/03/15/al-storm-survivors-warned-home-repair-scams/>

<https://opelikaobserver.com/local-law-enforcement-officials-warn-of-fraud-scams-during-tornado-recovery/>

<https://www.ledger-enquirer.com/latest-news/article228056104.html>

https://www.oanow.com/news/lee_county/officials-warn-residents-to-watch-out-for-home-builder-fraud/article_dc00a180-477e-11e9-bdef-fbb5ed03e643.html



HBLB Executive Director Chip Carden warns consumers during interview with WSFA News after devastating storm in Wetumpka, Alabama.

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***HBLB Works with State EMA for
Rapid Storm Response
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Board investigators, working with Lee County building officials, surveyed the impacted areas and will continue to work closely with officials and homeowners to guard against unlicensed activity. The Board recognizes the efforts of the

Lee County Sheriff's Department, the Lee County Building Department, and other local county leaders for immediately taking control of access to the damaged areas to keep scammers out.

Even as state and local leaders gathered for the March 15th press conference in Lee County, state and local EMA officials and National Weather Service survey teams were assessing damage from another round of tornados the previous night. Most notably, an EF-2 tornado touched down in Elmore County and caused damage to approximately 40 residences and business structures.

<http://www.wsfa.com/2019/03/15/damage-reports-coming-after-possible-tornado-chilton-county/>

<https://www.al.com/news/2019/03/alabama-tornado-total-climbs-again-following-thursdays-storms.html>

As this story was being written, the Board investigators in north Alabama were getting updates from tornado damage in Blount and Marshall counties. The Board will continue to work with local officials following storm damage to warn consumers about the dangers of scammers and unlicensed homebuilders.

The Board outlines steps consumers should take when working with a builder:

- **Ask if they are licensed. Ask to see the card!** The HBLB license is credit card-sized license – a sample is listed on HBLB's website. You may check on a builder's license status by calling 1-800-304-0853, or by visiting www.hblb.alabama.gov.
- **Ask for and check references**, especially if the builder makes unsolicited contact with you or is from out-of-town.
- **Make sure quotes and contracts are in writing.** Under state law, licensed homebuilders must use a written contract. Make sure it includes the contractor's full name, address, telephone number, a description of the work to be performed, starting and estimated

completion dates, and the total cost of the job.

- **NEVER make a full payment or substantial down payment up front. Do not make a final payment until you are satisfied, and all subcontractors have been paid.** If they tell you that more money is needed in advance, be wary.
- **Ask for proof of insurance**, including workers' compensation and general liability.

For information contact the Home Builders Licensure Board, 445 Herron Street, Montgomery, Alabama 36104, (334) 242-2230 or 1-800-304-0853 or www.hblb.alabama.gov. ▲



Builder Watch

Hotline

1-800-304-0853

**Protect Alabama Consumers
and Your Industry.**

**Report Unlicensed Builder
Activity!**

(All calls will remain anonymous.)

Roofers Licenses Now Being Issued

Following the addition of a Roofers License to the Home Builders Licensure Law that went into effect on May 1, 2018, the Home Builders Licensure Board incorporated the procedures for the Roofers License into its Administrative Code that became effective October 12, 2018. On January 1, 2019, the HBLB began issuing Roofers Licenses to applicants meeting the requirements for licensure.

Who is Required to Have a Roofers License and What Scope of Work Can Be Done?

As a reminder, any builder who contracts with a homeowner to perform residential roofing; “installing products or repairing surfaces on the external upper covering of a residence or structure that seals, waterproofs, or weatherproofs the residence or the structure, when the cost of the undertaking exceeds \$2,500” will be required to have a ROOFERS LICENSE issued by the Board and to maintain coverage of a \$10,000 performance bond. The Roofers License **allows the license holder to perform ONLY residential roofing** and DOES NOT require a written examination testing experience and ability. (Ala. Admin. Code r. 465-X-1-.01(10); 465-X-3-.04(2) and (5)).

PLEASE NOTE: If an individual or a company holds BOTH LIMITED and ROOFERS licenses:

- The licensee cannot use both licenses on a single structure. For example, a licensee cannot use their ROOFERS license to perform residential roofing on a structure and then use their LIMITED license to perform an additional trade, such as flooring or painting, when the cost of the undertaking of the additional trade would be over \$10,000.
- If licensees perform work outside the scope of their license, they may be subject to fines, suspension, or revocation of their Home Builders License pursuant to Ala. Code § 34-14A-8.

Requirements for Applying:

1. An applicant for the Roofers License MUST demonstrate proof of financial responsibility by submitting to the Board, at the applicant's expense, a bond issued by a licensed bonding or surety company. The bond:
 - must be in an amount not less than \$10,000;
 - must name the Home Builders Licensure Board as the Obligee of the bond;
 - must be valid for coverage from the date of issuance to December 31 of the current licensure year; and
 - must include a legal instrument sufficient to authorize the Board to exercise the bond.
2. With an application for the Roofers License, the experience and ability requirements for licensure are met if such person submits an application to the Board establishing:
 - That the applicant possesses sufficient roofing qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board.
 - Proof that an applicant currently holds or held on or before one (1) year prior to the date the application is received by the Board, a business or occupational license, issued by a governmental instrumentality of this state, as a contractor, roofer, or other construction trade, shall provide sufficient evidence of the applicant's building qualifications and experience.

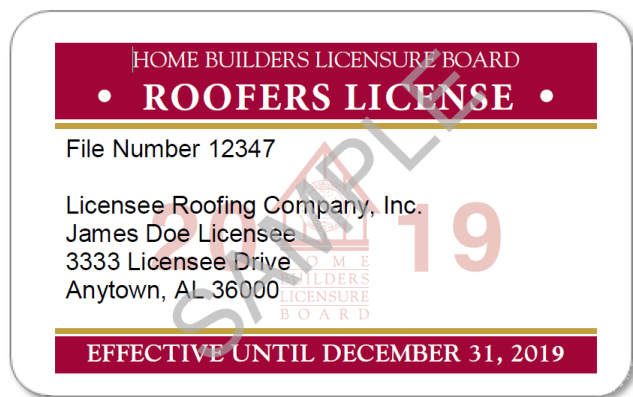
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Roofers Licenses Now Being Issued

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Common Roofers Application Mistakes and Things to Remember:

- **READ THE APPLICATION CAREFULLY** and call our office with any questions.
- The bond must be submitted **DIRECTLY** from the surety or insurance company issuing it.
- The bond must be **SIGNED** by the Principal (the applicant).
- The name listed on the bond **MUST** match the name on the application. If applying as an individual doing business under a trade name, the individual's name must be listed on the bond.
- If applying as an LLC, the applicant must provide company minutes stating whether the LLC is member-managed or manager-managed (it cannot be both) and stating that the DQR is either a member or a manager.



License Verification:

Until further notice, all roofers licenses are unavailable when using the “Licensee Search” feature on the HBLB website. Please contact our office at 1-800-304-0853 to verify the status of a roofers license.

If you have any questions about the roofers license or the application process, please contact our office at 1-800-304-0853. ▲

Another Fresh Face

The staff of the Home Builders Licensure Board has another new face. With the promotion of Seth Gowan to Deputy Attorney General and Chief Legal Counsel for the Board, we welcome Effie M. Hawthorne as an Assistant Attorney General and attorney for the Board. Effie is a native of Montgomery, growing up in Cottage Hill right around the corner from where the HBLB office is currently located. She graduated from Auburn University Montgomery summa cum laude and received her J.D. from Thomas Goode Jones School of Law. Following law school, Effie worked for a private law firm for several years before beginning her career with the State of Alabama at the Board of Pardons and Paroles.

Effie is active in the legal community, currently serving as the past-President for the Montgomery County Bar Association’s Women’s Section and a board member for the MCBA Young Lawyers Section. She is a member of the Alabama State Bar’s Young Lawyers, Women’s, and Government Sections as well as the MCBA Government Section. Effie serves on the Alabama State Bar’s Quality of Life, Health, and Wellness Task Force. She is a Barrister member of the Hugh Maddox American Inn of Court. She also serves on the American Bar Association’s Paralegal Studies Advisory Committee at Auburn University Montgomery.

In addition, Effie serves on the Junior Executive Board for Child Protect, a non-profit organization based in Montgomery that supports the victims of child abuse.

Effie is an avid lover of reading, Pure Barre, and Auburn football. She is married to Charlie Hawthorne, a Deputy District Attorney for Montgomery County, and they welcomed their first child, Charles, in January. ▲



Effie M. Hawthorne

COMPLIANCE CORNER

The 2018 fiscal year was another busy time for the Board's compliance division as over \$150,000 were collected in administrative fines from unlicensed builders, consumer complaints and board complaints.

In consumer complaints against licensees, the Board continues to see too many instances of builders not using a written contract, not completing written change orders to comply with the contract between the builder and the homeowner and doing business through an unlicensed entity.

Since 2006, the Home Builders Licensure Law has required licensees to utilize a valid written contract when engaging in the business of residential homebuilding. The Board further clarified a "valid written contract," to include offer and acceptance indicated by the signing of the parties with new rules effective October 12, 2018 Ala. Admin r. 465-X-1-01(12)(a)11. Failure to use a valid written contract is a violation of the Act that may result in a monetary fine.

Most standard residential construction contracts include a clause requiring written documentation, signed by the parties, to reflect agreed upon changes to the scope of work under the contract. Such clauses are there to protect the builder just as much as the homeowner. All too often during investigations, the Board discovers that builders and homeowners make changes, sometimes significant, with no change orders. The failure to use change orders is misconduct under the rules and regulations that may

result in a monetary fine, education classes, suspension, or revocation of a license depending upon the severity of the circumstances.

Finally, the Board continues to see too many people who are issued a license in their individual name violate the law by working through an unlicensed corporation or limited liability company (LLC). By regulation, the Board issues licenses to individuals, partnerships, corporations, and LLCs. Partnerships, corporations, and LLCs are licensed through a designated qualifying representative (DQR). The extent to which you may engage in residential home building depends on how you are licensed. An individual license does not authorize you to do work through one of the business entities.

You must properly license a business entity. Noncompliance with these regulations is a violation of the Home Builders Licensure Law that may result in a monetary fine, education classes, suspension or revocation of license depending upon the severity of the circumstances.

If you have any questions about these issues or any other legal questions regarding the Home Builders Licensure law and regulations, contact the Board. ▲

In consumer complaints against licensees, the Board continues to see too many instances of builders not using a written contract, not completing written change orders to comply with the contract between the builder and the homeowner and doing business through an unlicensed entity.

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.

