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RE: Request for Advisory Opinion, AD OP 26-070

ISSUE: Whether residential swimming pools will be under the jurisdiction of the Home Builders Licensure Board starting 10/1/2026; and, Effective 10/1/2026, whether a holder of a home builders license without limitation will be able to construct residential swimming pools with the license.

OPINION: The Board does not have explicit jurisdiction over residential swimming pools after October 1, 2026, because Act 2026-396 does not establish any new statutory authority for the Board for the regulation of residential swimming pools but, rather, only exempts residential swimming pools from the jurisdiction of the Alabama Licensing Board of General Contractors. It is the opinion of the Board that, post-October 1, 2026, where the cost of the undertaking for the construction, installation, or repair of a residential swimming pool exceeds \$10,000, a company or individual holding a home builders license without limitation may perform such residential swimming pool construction activity until such time as any legislative action, court order, or Attorney General's Opinion addresses jurisdiction of residential swimming pools.

Dear 

This letter is in response to your request for an Advisory Opinion from the State of Alabama Home Builders Licensure Board (the "Board") regarding residential swimming pools. Specifically, you provided the following information:

Since 2022 I have held an Alabama General Contractor's license in swimming pools with the subcategory classification of: **renovations and repairs**. I was at the GC board meeting earlier today talking to the board about issuing I am having getting my current license amended to now include new pool construction. It was during today's meeting that the board told me that effective 10/1/26 residential swimming pools no longer be under their jurisdiction, and they suggested that I speak with this board about it. I want to build new residential swimming pools, and I am now in limbo because I am unable to get any sort of amendments done to by GC license while residential pools remains under their jurisdiction. Thus, I am writing

HOME BUILDERS LICENSURE BOARD

this letter to formally request an advisory opinion answering the following questions:

1. Will residential swimming pools be under the jurisdiction of the HBLB starting on 10/1/26?
2. Effective 10/1/26, will an unlimited home builders license allow a license holder to construct residential swimming pools?

I appreciate your timely response.

You have specifically asked whether residential swimming pools will be under the jurisdiction of the Board beginning October 1, 2026, and whether a builder holding a license without limitation will be allowed to construct and install residential swimming pools.

SB279 was introduced during the 2026 Regular Session and was signed by the Governor and enacted on April 9, 2026. Act 2026-396 amends Ala. Code § 34-8-7 to provide additional services to the list of exemptions to the requirements of the general contracting law. Specifically, Act 2026-396 provides an exemption for the construction or repair of any residential swimming pool, which means, effective October 1, 2026, the regulation of the construction or repair of residential swimming pools will no longer fall under the jurisdiction of the Alabama Licensing Board of General Contractors. While Act 2026-396 specifically exempts residential swimming pools from the jurisdiction of the Alabama Licensing Board of General Contractors post October 1, 2026, it does not provide any guidance or framework to swimming pool contractor licensees, building departments, or consumers related to residential swimming pools. It also does not provide any new statutory authority to the Board for the licensing of contractors and regulation of residential swimming pool construction.

The home builders licensure law is codified at Ala. Code 1975 § 34-14A-1, *et seq.*, (“the Act”). The Act defines a residential homebuilder as:

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

HOME BUILDERS LICENSURE BOARD

described in this subdivision, through advertising or otherwise, shall be deemed to have engaged in the business of residential home building.” Ala. Code § 34-14A-2(16).

Ala. Code § 34-14A-2(9) provides the definition of “improvement” as “[A]ny site-built addition or enhancement attached to or detached from a residence or structure for use and enjoyment by the homeowner. Further, Ala. Admin. Code r. 465-X-1-.01(9) defines repair, improvement, or reimprovement, as used in Ala. Code § 34-14A-2(16), as “engaging in the business of residential homebuilding by contracting directly with a homeowner to perform construction on a residence or structure, whether attached or detached from a residence or structure, when the cost of the undertaking exceeds \$10,000 for repair, improvement, or reimprovement; or when the cost of the undertaking exceeds \$2,500 for repair, improvement, or reimprovement of a residential roof.” Ala. Admin. Code r. 465-X-1-.01(9)(c) further provides, “[w]hen the construction, attached or detached from the residence or structure involves more than one trade, an unlimited license is required.”

Applying the Act and regulations to your first question, “[W]ill residential swimming pools be under the jurisdiction of the HBLB starting 10/1/26,” the Board opines that, no, it does not have explicit jurisdiction over residential swimming pools after October 1, 2026. Act 2026-396 does not establish any new statutory authority for the Board for the regulation of residential swimming pools. This Act only exempts residential swimming pools from the jurisdiction of the Alabama Licensing Board of General Contractors. This advisory opinion serves solely as the Board’s position until such time as any legislative action, court order, or Attorney General’s Opinion directing jurisdiction over residential swimming pools to this Board or any other state agency. The Board issues this advisory opinion and takes the opinions contained therein in recognition of the need to provide oversight of this significant specialized construction activity and the significant harm that could result to the public as the result of inadequate, unsafe, or inferior building services provided by unqualified, incompetent, or dishonest contractors. The Board will continue to work with executive and legislative branch leadership, as well as other state and local authorities, through the interim and to enact statutory clarity for the general public, building departments, and contractors now impacted by the uncertainty.

Applying the Act and regulations to your second question provides such interim guidance. Pursuant to Ala. Admin. Code r. 465-X-1-.01(9), a residential swimming pool meets the Board’s definition of a detached improvement. Accordingly, and applying the law and regulations to your second question, “[E]ffective 10/1/26, will an unlimited home builders license allow a license holder to construct residential swimming pools,” the Board opines that, where the cost of the undertaking for the construction, installation, or repair of a residential swimming pool exceeds \$10,000, a company or individual holding a home builders license without limitation may perform such residential swimming pool construction activity. The construction and installation involve more than one specific trade being performed and/or supervised (construction, installation, electrical, etc.). Therefore, the Board further opines that, because the construction and installation of a residential swimming pool involves more than one trade, a company or individual needs a home builders license without limitation issued by the Board to construct, install, or repair residential swimming pools, where the cost of the undertaking exceeds \$10,000.

HOME BUILDERS LICENSURE BOARD

The Board further notes that contractors holding a current license as a pool contractor or subcontractor with the Alabama Licensing Board of General Contractors who has taken and passed any nationally recognized building construction trade examination may, with Board approval, be required to only take and pass the business/law section of the homebuilders licensure exam and may apply for a homebuilders license without limitation to construct, install, or repair residential swimming pools. It is also the Board's opinion that contractors holding a current license as a pool contractor or subcontractor with the Alabama Licensing Board of General Contractors may act as a subcontractor for the construction, installation, and/or repair of a residential swimming pool under the supervision of an unlimited homebuilders license holder.

The Alabama Licensing Board of General Contractors, by statute, maintains jurisdiction over residential swimming pools if the contract between the consumer and contractor predates October 1, 2026. Accordingly, any consumer complaint where the date of the contract between the consumer and the contractor is prior to October 1, 2026, the Alabama Licensing Board of General Contractors maintains jurisdiction and has a statutorily recognized duty to investigate and regulate such contractors while providing protection for the consumer. This Board would have no jurisdiction over such residential swimming pool construction activity.

This advisory opinion constitutes the Board's interpretation of the law and regulations as applied to the facts contained in the request, as well as contemplating facts presented in numerous and previous informal requests. It is not binding on a court of law. The Board strongly encourages you to review this advisory opinion with legal counsel.

Advisory opinions may be revoked or modified by the Board at any time; however, any such revocation or modification shall not be applied retroactively unless the person making such a request misstated or omitted facts material to the advisory opinion, or the advisory opinion was issued with respect to a matter where residential construction had already commenced. More specifically, to this advisory opinion and the issues addressed therein, the Board will continue to work with executive and legislative branch leadership, as well as other state and local authorities, through the interim toward statutory clarity for the general public, building departments, and contractors now impacted by the uncertainty.

Sincerely,


J. SETH GOWAN
Executive Director

JSG/lkl