

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 465 Department or Agency Home Builders Licensure Board

Rule No. 465-X-3-12

Rule Title: Continuing Qualification for Applicants in Counties Having Population of Less Than 30,000

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

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? N/A

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 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 Reference Service.

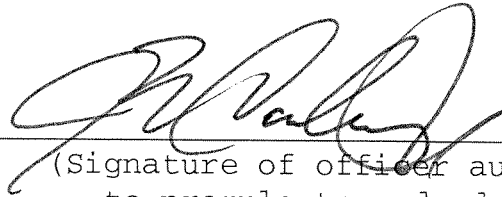
Signature of certifying officer 

Date 10/20/11

(DATE FILED)
(STAMP)

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 5,
2011

CONTACT PERSON AT AGENCY: Mr. J. R. Carden, Jr., Exec. Director
445 Herron Street
Montgomery, AL 36104

A handwritten signature in black ink, appearing to read "J. R. Carden, Jr.", written over a horizontal line.

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

465-X-3-.12 Continuing Qualification for Applicants in Counties Having Populations of Less Than 30,000.

(1) An individual residential home builder or building inspector residing in or acting as a residential home builder in a county having a population of less than 30,000, the county commission of which has irrevocably elected to make applicable the Act, shall be deemed to have satisfied the experience and ability requirements for licensure if such builder or building inspector

(a) satisfied the requirements of 465-X-3-.04(4) of these Rules, and

(b) since one year from the date the county commission of the Electing County notified the Board of the action of the county commission making applicable the Act, continuously has been licensed as a residential home builder or has served as a qualifying representative of a licensed residential home builder, or any combination thereof.

(2) If such an individual later chooses to apply for another license, that individual may rely upon this continuing status as either a licensee or qualifying representative to evidence satisfaction of the experience and ability requirements for licensure, but also must comply with all other licensure requirements.

EXAMPLES:

(i) Adams resides in a county with a population of fewer than 30,000 residents. On August 1, 1999, the county commission of said county irrevocably elected to make the Act applicable to the county and properly notified the Board of the election on August 5, 1999. Adams, a resident of said county, applied for and received an individual license as a residential home builder on January 1, 2000, and maintained that license through December 2000. In November 2000 Adams Builders, Inc., a corporation of which Adams is an officer, applies for a license, designating Adams as its qualifying representative. Adams Builders, Inc. may rely on Adams continuing status as a licensee to fulfill the experience and ability requirements for licensure. Adams Builders, Inc., however, will have to satisfy all other requirements for licensure, including, without limitations, the financial responsibility requirement.

(ii) Baker Builders, Inc. conducts business in a county with a population of fewer than 30,000 residents. On August 1, 1999, the county commission of said county irrevocably elected to make the Act applicable to the county and properly notified the Board of the election on August 5, 1999. Baker Builders, Inc. applied for and received a license on October 1, 1999, within one (1) year from the date the county commission notified the Executive Director, in writing, of the election making applicable the Act. Baker Builders, Inc. maintained the license until December 31, 2000. Throughout that period, Smith served as the designated qualifying representative. In November 2000, Smith applies for an individual license. Smith may rely on his or her continuing status as the qualifying representative of Baker Builders, Inc., to fulfill the experience and ability requirements for licensure. Smith, however, will have to satisfy all other requirements for licensure, including, without limitations, the financial responsibility requirement.

(iii) ~~Ace Building Company, a partnership, conducts business in a county having a population of fewer than 30,000 residents. On August 1, 1999, the county commission of said county irrevocably elected to make the Act applicable to the county and properly notified the Board of the election on August 5, 1999. Ace Building Company, a partnership, applied for and received a license on or before August 5, 2000, and maintained that license until December 31, 2001. Throughout that period, Jones served as the partnership's designated qualifying representative. In November 2001, Jones applied for and received an individual license, relying on service as the partnership's qualifying representative to satisfy the experience and ability requirements for licensure. In November 2002, Superior Builders, Inc., a corporation of which Jones is an officer, applied for a license. Superior Builders, Inc. may rely on Jones' continuing status as a qualifying representative and then a licensee to fulfill the experience and ability requirements for licensure. Superior Builders, Inc., however, will have to satisfy all other requirements for licensure, including without limitation, the financial responsibility requirement.~~

(iv) ~~Bill resides in a county having a population of fewer than 30,000 residents. On August 1, 1999, the county commission of said county irrevocably elected to make the Act applicable to the county and properly notified the Board of the election on August 5, 1999. Bill applied for and received an individual license by August 1, 2000. In December 2000, he began work as an employee of Best Builders, Inc., a licensed entity, and continued working for Best Builders, Inc. until September 2003. During his employment by Best Builders, Inc., Bill neither maintained an individual license nor served as the company's qualifying representative. In October 2005, Bill applied for an individual license. Because Bill did not maintain an individual license or serve as the qualifying representative for a licensee during the period from January 2001, to October 2005, Bill will not be deemed to have satisfied the experience and ability requirements for licensure and will be required to sit for and pass the written examination testing experience and ability and meet all other requirements for licensure.~~

Authors: Kathy Perry Brasfield

Statutory Authority: Code of Ala. 1975, § 34-14A-5.

History: Original Rule Filed: June 4, 1999; effective July 9, 1999. **Amended:** Filed August 4, 2006; effective September 8, 2006.