



# A SELECTED READING

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## State Regulated Professions and Licensing Requirements

The Alabama Legislature has adopted numerous statutes which regulate various professions in the state. The various laws require many professionals to obtain certification from the state before they are eligible to work in Alabama. These certifications serve several purposes. They protect the public from poor workmanship by making sure that certified professionals have the ability to do the jobs they promote themselves for. This, in turn, helps encourage accountability by creating a register of professionals and by establishing boards to oversee that work is done properly and by the proper people.

One of the key components in furthering these goals is accomplished by municipal clerks and revenue officials. These officials are often in the best position to know when a person is working in a particular field since they can know what jobs are being done locally. Also, they will want to make sure the professional has complied with local licensing requirements. When a competitor sees someone working without a license, he or she is more likely to lodge a complaint with the local clerk or licensing officials.

The Department of Revenue is required pursuant to Section 11-51-193, Code of Alabama 1975, to annually produce a list of all state boards and agencies that regulate the licensing of businesses and occupations under their jurisdiction. This list is to be provided to municipalities, and more information and a copy of the list can be found on the Department of Revenues website here: <https://revenue.alabama.gov/business-license/business-licensing/municipal-business-license-information/>.

Prior to issuing a business license to a taxpayer who is subject to the jurisdiction of a particular state licensing board, a municipality is required to attempt to confirm from the board or agency that the taxpayer is duly licensed by and in good standing with the board or agency. Failure of the municipality to receive such confirmation due to a good faith error or other reasonable cause shall absolve the municipality and its employees or agents from any civil liability or criminal penalty that would otherwise arise or accrue if it is determined that the taxpayer was not in good standing at the time of obtaining a business license from the municipality.

In addition to the above requirements, many statutory schemes for certifying professionals specifically require municipal revenue officers to obtain proof that a person has been certified by the state before issuing a municipal license and provide for criminal penalties for failure to confirm licensing by the state. Knowing which professions require municipal verification of state certification places a large burden on local officials, as does knowing what types of work require a professional to obtain a state license.

### State Licensed Professions *Specifically* Requiring Proof Before Issuing a Municipal License

#### General Contractors

Chapter 8 of Title 34, Code of Alabama 1975, provides for the licensing and regulation of general contractors to protect the public against incompetent contractors and to better assure that properly-constructed structures are free from defects and dangers to the public. *Cooper v. Johnston*, 219 So.2d 392 (Ala. 1969).

Section 34-8-1, Code of Alabama 1975, defines a general contractor as: “one who, for a fixed price, commission, fee or wage undertakes to construct or superintend or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement in the state of Alabama where the cost of the undertaking is \$50,000 or more, shall be deemed and held to have engaged in the business of general contracting in the state of Alabama.”

Section 34-8-1(b) covers the construction, renovation and repair of any swimming pool in the state by requiring a person acting as a general contractor and receiving a fixed price, commission, fee or wage greater than \$5,000 be licensed under the general contractor code provisions.

Section 34-8-20, Code of Alabama 1975, provides for the establishment of a State Licensing Board for General Contractors to examine and determine the qualifications of persons desiring to engage in the business of general contracting.

The secretary-treasurer of the board is required to keep records of the board and a register of all applicants for a license together with a roster showing the names and addresses of all general contractors. This roster is mailed to the clerk of each incorporated municipality and the probate judge of each county. Section 34-8-26, Code of Alabama 1975.

Any person desiring to be licensed or desiring to renew an existing license as a general contractor shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and shall make and file with the board, not less than 30 days prior to any regular meeting thereof, a written application on the form prescribed by the board. The appropriate fee must accompany the application. In addition, when applying for the license, the applicant must state in the application the type or types of contracts which he or she wishes to perform and shall provide proof of liability insurance.

The board classifies contractors according to types of contracts on which they perform, within maximum bid limits, on the following basis: the applicant's request; his or her last financial statement prepared by a CPA or independent licensed public accountant approved by the board; his or her previous experience and equipment; and the facts in each case.

If the application is satisfactory, the board may require the applicant to take an examination. If the examination results are satisfactory, the board issues a certificate to the applicant allowing him or her to engage in general contracting in the state of Alabama, stipulating in each license issued the types of work the contractor is permitted to bid on or to perform under his license. The certificate sets out a letter symbol indicating the maximum limits on which he or she is permitted to bid or to perform in a single contract. The maximum bid limits are set by the formula of not more than 10 times either the net worth or working capital, whichever is less, as shown by the applicant's latest financial statement and designated in the classification set out herein that is the closest to this amount.

- A – Not to exceed \$100,000
- B – Not to exceed \$250,000
- C – Not to exceed \$500,000
- D – Not to exceed \$1,000,000
- E – Not to exceed \$3,000,000
- U – Unlimited

The certification of authority to engage in general contracting shall expire 12 months following issuance or renewal and shall become invalid on that date unless renewed. Section 34-8-2(b), Code of Alabama 1975.

The roster maintained by the secretary-treasurer of the board shows the name of the contractor, the address, the license number and bid limit. It also shows the type of work which the contractor is qualified person. No one shall be permitted to engage in the business of general contracting without a valid license. Violation of this law is a misdemeanor. Section 34-8-6, Code of Alabama 1975.

Section 34-8-7, Code of Alabama 1975, allows the following exemptions from the provisions of the law: the practice of general contracting, as defined in Section 34-8-1, by an authorized representative or representatives of the United States government, state of Alabama, incorporated municipality, or county in this state under the supervision of a licensed architect or engineer. Any work contracted out by the representative shall comply with the provisions of this chapter for general contractor; the construction of any residence or private dwelling; a person, firm, or corporation constructing a building or other improvements on his, her, or its own property provided that any of the work contracted out complies with the definition in this chapter for "general contractor;" the installation, repair, maintenance or removal of facilities, equipment, or systems used in or substantially related to the generation, transmission or distribution of electric power, natural gas, or telecommunications in an emergency by a utility regulated by the Public Service Commission, or any entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications, or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer; the repair, maintenance, replacement, reinstallation, or removal of facilities, equipment or systems used in or substantially related to the generation, transmission, or distribution of electric power, natural gas or telecommunications on a routine, regular, or recurring basis by a utility regulated by the Public Service Commission or any entity engaged in the generation, transmission, or distribution of electric power, natural gas or telecommunications or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer; and routine or regular maintenance, repair, replacement, reinstallation or removal of equipment, specialized technological processes or equipment facility systems as determined by the board with regard to scope, frequency and specialty of the work to be performed.

The exemptions listed above shall not include a swimming pool contractor. However, a person, firm or corporation constructing a swimming pool on his or her own property shall be exempted from the provisions of the contractor law.

All owners, architects, engineers, construction managers, and private awarding authorities preparing plans and specifications for work to be contracted in Alabama must include in their invitations to bidders and their specifications a copy of this law or applicable portions. Section 34-8-8, Code of Alabama 1975.

Any person, firm or corporation, upon making application to the building inspector or such other authority of any incorporated municipality charged with the duty of issuing building or other permits for the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation or demolition of any building, highway, sewer, grading or any improvement or structure, where the cost thereof is to be \$50,000 or more, shall, before he or she shall be entitled to the issuance of such permits, furnish satisfactory proof to such inspector or authority that he or she is duly licensed under the general contractors law. Section 34-8-9, Code of Alabama 1975.

It is illegal for any building inspector or authority to issue a permit unless the applicant has furnished evidence that he is either exempt from the license requirement or is duly licensed to perform or superintend the work for which a permit is requested. Any building inspector or other authority violating the terms of this law shall be guilty of a Class C misdemeanor and shall, for each offense of which he or she is convicted, be punished in accordance with Sections 13A-5-7 and Sections 13A-5-12, Code of Alabama 1975. Section 34-8-9, Code of Alabama 1975.

Section 34-8-7(c) of the Code states that subcontractors, as defined in Section 34-8-1(c), must comply with all provisions that cover general contractors. This would appear to require municipalities to verify certification of subcontractors as well. One relevant exception to this rule is Section 34-8-7(c)(5), which provides that subcontractors do not have to be certified at the time a project is bid but must be certified by the state contractor's board before beginning work.

All municipal contracts for the construction of any building, highway, sewer, grading or any improvement or structure, the cost of which is \$20,000 (the amount has since changed to \$50,000 – See Section 34-8-1, Code of Alabama 1975)) or more, shall be awarded to licensed general contractors unless the work is being done by employees of the municipality under the supervision of a licensed architect or engineer. The word “cost” refers to the aggregate amount which the contractor is to receive for his or her work. Consequently, the law cannot be circumvented by dividing the work of a single construction project into two separate contracts of less than \$20,000 (now \$50,000) each. *Cochran v. Ozark Country Club, Inc.*, 339 So.2d 1023 (Ala. 1976).

The Attorney General's office held that where a municipality acts as its own contractor, pursuant to Section 34-8-7, Code of Alabama 1975, the municipality must use licensed subcontractors if the project will cost \$20,000 (now \$50,000 – See Section 34-8-1, Code of Alabama 1975) or more. If the municipality elects to use a general contractor to oversee the project, subcontractors do not have to be licensed. In either case, subcontractors whose work does not exceed \$20,000 (now \$50,000) are exempt from the licensing requirements. AGO 1997-053.

Additionally, the Attorney General's office has held a company that provides and installs permanent sound systems in businesses, the cost of which is \$50,000 or more, must be a licensed general contractor. If the sound system is not a permanent improvement, a license is not required. AGO 1999-233.

Section 39-2-14, Code of Alabama 1975, requires every nonresident contractor to register with the Department of Revenue prior to engaging in the performance of a contract in this state. At the time of registration, the contractor shall deposit with the Department of Revenue five percent (5%) of the amount the contractor is to receive for the performance of the contract. This deposit shall be held within a Contractors Use Tax Fund pending the completion of the contract, the determination of the taxes due the state and other governmental bodies and the payment of those taxes. In lieu of such deposit, the contractor may provide a corporate surety bond to be approved by the commissioner of revenue as to form, sufficiency, value, amount, stability and other features necessary to provide a guarantee of payment of the taxes due the state and other governmental bodies.

Also, within 30 days after registration, the contractor shall file a statement with the Department of Revenue itemizing the machinery, materials, supplies and equipment that he or she has or will have on hand at the time he or she begins the fulfillment of the contract, where such tangible personal property has been brought, shipped or transported from outside the state of Alabama, upon which neither the use taxes or ad valorem taxes have been paid. The contractor shall pay the tax due at the time of filing, and then report and pay the tax as required by the commissioner of revenue. Upon payment of the taxes due, the deposit or the surety bond required shall be returned to the out-of-state contractor. Section 39-2-14, Code of Alabama 1975.

**Further information may be obtained from the Alabama Licensing Board for General Contractors, 2525 Fairland Drive, Montgomery, Alabama 36116, (334) 272-5030.**

## Architects

The state Legislature adopted Sections 34-2-30 through 34-2-42, Code of Alabama 1975, to regulate the practice of architecture within the state of Alabama. The law states that no person shall practice architecture in the state or use the title “architect” or any title, sign, card or device to indicate that the person is practicing architecture, unless the person has complied with the state laws regulating the profession. The law established a six-member board for the registration of architects to make and adopt bylaws, rules and regulations to govern the members of the profession. This board has the responsibility of maintaining a register of qualified architects and of determining who shall be certified as an architect. Section 34-2-38, Code of Alabama 1975.

Section 34-2-32(c), Code of Alabama 1975, states that the services of a registered architect shall be required on all buildings, except those exempted by state law. No official of the state or of any city, town or county charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings shall accept or approve any plans or specifications that are not so prepared. The Code may place criminal sanctions on officials who ignore this requirement. Section 34-2-36 provides that any person who knowingly, willfully or intentionally violates any provision of the law shall be guilty of a Class A misdemeanor. Each day of violation constitutes a separate offense.

**NOTE** – Section 34-8-8 provides that all owners, architects, engineers, construction managers, and private awarding authorities preparing plans and specifications for work to be contracted in Alabama must include in their invitations to bidders and their specifications a copy of this law or applicable portions as well as whether he or she is a resident of Alabama and whether a license has been issued to him or her. Additionally, all owners, architects and engineers receiving bids pursuant to Title 34, Chapter 8, must require the person, firm or corporation to include his or her current license number on the bid. Bids that do not comply with this section must be rejected. Violators of these provisions are subject to criminal penalties.

No person shall be required to register as an architect in order to make plans and specifications for or administer the erection, enlargement or alteration of any of the following buildings: the buildings upon any farm for the use of any farmer, regardless of the cost of such building; any single family residence building; the utility works, structures or buildings (provided that the person performing such architectural works is employed by an electric, gas or telephone public utility regulated pursuant to the laws of Alabama or by a corporation affiliated with such utility); or any other type building(s), which has a total area of less than 2,500 square feet, and is not intended for assembly occupancy. However, schools, churches, auditoriums or other buildings intended for the assembly occupancy of people requires a registered architect to make the plans. Section 34-2-32 (b), Code of Alabama 1975.

The law does not prevent employees of registered architects from acting under the instructions, control or supervision of their employers or the employment of superintendents of the construction or alteration of buildings. Nothing in the law shall prevent registered professional engineers or the employees or subordinates under their supervision or control from performing architectural services incidental to their engineering practice. Nothing in the law shall prevent registered architects or the employees or subordinates under their supervision or control from performing engineering services incidental to their architectural practice. Section 34-2-32, Code of Alabama 1975.

Any person who knowingly, willfully or intentionally violates any provision of the law shall be guilty of a misdemeanor. Each day of such violation shall constitute a distinct and separate offense. Section 34-2-36, Code of Alabama 1975.

The Attorney General has advised that a city building official is not prohibited from approving plans for a church, school or place of assembly if the plans bear a registered professional engineer’s seal but not a registered architect’s seal. AGO 1982-444 (to Hon. George E. Little, July 15, 1982).

The Attorney General has further advised that final acceptance and approval of plans for schools, churches, auditoriums, buildings intended for the mass assemblage of people, and other non-farm buildings whose total cost is \$50,000 or more can only be given by the municipal building official after review for compliance with applicable codes and ordinances. However, before such plans can receive consideration, they must, under state law, bear the seal of a registered architect or engineer. AGO 1983-149 (to Hon. Steve Means, January 27, 1983).

The Attorney General ruled in 2003-009 that licensed professional engineers may perform architectural services incidental to their engineering practice and registered architects may perform engineering services incidental to their architectural practice.

**Further information may be obtained from the Alabama Board for Registration of Architects, 100 North Union Street, Suite 390, Montgomery, Alabama 36130, (334) 242-4179, <https://www.boa.alabama.gov>.**

## Engineers and Land Surveyors

Alabama law regulating the practice of engineering and land surveying is found in Sections 34-11-1 through 34-11-37, Code of Alabama 1975. The law establishes a State Board of Licensure for Professional Engineers and Land Surveyors to implement the provisions of the law, under Section 34-11-30, Code of Alabama 1975. The board maintains a roster showing

the names and addresses of all licensed professional engineers, all professional land surveyors, and all who possess current certifications as engineers-in-training or land surveyor interns. This roster, which is prepared at intervals established by the board, is made available to each person so registered or certified, placed on file with the Secretary of State, and may be distributed or sold to the public upon request. All licensed or certification is handled by the board. Section 34-11-3, Code of Alabama 1975.

Section 11-6-21, Code of Alabama 1975, specifies that any person appointed to the position of engineer trainee shall be a graduate engineer and a certified engineer intern as provided in Chapter 11 of Title 34, in the state of Alabama and in good standing.

Section 34-11-2, Code of Alabama 1975, provides that no persons in public or private capacity shall practice or offer to practice engineering or land surveying, unless he or she shall first have submitted evidence that he or she is qualified to practice under, Section 34-11-4, and shall be licensed by the board, or unless he or she is specifically exempt from licensure under the provisions of Section 34-11-14, Code of Alabama 1975.

Section 34-11-10, Code of Alabama 1975, further states: it shall be unlawful for the state or any of its departments, boards or agencies or any county, municipality or political subdivision or any department, board or agency of any county, municipality or political subdivision to engage in the construction of any public work involving the practice of engineering, unless the engineering drawings, plans, specifications and estimates have been prepared by and the construction executed under the direct supervision of a professional engineer; provided, nothing in the law shall be held to apply to any public work, wherein the expenditure for the complete project of which the work is a part does not exceed \$20,000 (**NOTE** – This provision was not amended when the public works bid law amount was raised to \$50,000; however, this was probably an oversight.).

Certificates of authorization are required under Section 34-11-9, Code of Alabama 1975, for corporations, partnership or firms that practice engineering and land surveying as defined in Section 34-11-1, which allows their agents to act on their behalf. However, nothing in this section should be construed to mean that a certificate of licensure to practice engineering or land surveying shall be held by a corporation, partnership or firm. Furthermore, no corporation, firm, or partnership shall be relieved of responsibility for the conduct or acts of its agents.

The board shall have the power to discipline any licensee or certified engineer intern or land surveyor intern or corporation, partnership or firm which violates any part of Section 34-11-11. If after a hearing, a majority of members of the board find the accused guilty, the board shall impose a fine not to exceed \$5,000 for each count or written offense. Section 34-11-11.2, Code of Alabama 1975.

Again, there may be criminal sanctions for violations. Any person, corporation, partnership or firm which violates any part of this law shall be guilty of a Class A misdemeanor and may upon conviction be punished as provided by law. Each day of the violation shall constitute a separate offense. Section 34-11-15, Code of Alabama 1975.

In addition to or in lieu of the sanctions provided, the board may issue an order to any individual or firm engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the individual or firm to cease and desist from the activity, conduct, or practice, or the performance of any work done or about to be commenced. If there is a refusal, the board shall issue a writ of injunction in any court of competent jurisdiction. In the suit for an injunction, the board may demand of the defendant a civil penalty of up to \$5,000 plus costs and attorney fees for each offense. Section 34-11-15, Code of Alabama 1975.

The Attorney General ruled in AGO 2003-009 that licensed professional engineers may perform architectural services incidental to their engineering practice and registered architects may perform engineering services incidental to their architectural practice.

**Further information may be obtained from the Engineers and Land Surveyors Board of Registration, RSA Union Bldg. Suite 382, 100 North Union Street, Montgomery, Alabama 36104, (334) 242-5568, <https://www.bels.alabama.gov>.**

### **Heating, Air Conditioning and Refrigeration Contractors**

Sections 34-31-18 through 34-31-35, Code of Alabama 1975 regulate persons engaged in the installation of heating, air conditioning and refrigeration systems. A board of heating, air conditioning and refrigeration contractors has been created to govern the members of the profession.

No individual, partnership or corporation shall advertise, solicit, bid, obtain a permit from, do business or perform the function of a certified heating and air conditioning contractor unless the person or persons responsible and in charge are certified operators approved by the board. Section 34-31-24, Code of Alabama 1975.

No official charged with the duty of issuing licenses to any individual, partnership or corporation to operate a business as a certified heating, air conditioning, and refrigeration contractor shall issue such license unless he or she presents, for inspection, a certificate of qualification issued by the board to the individual or to some person responsible and in charge

of the partnership or corporation. Section 34-31-24, Code of Alabama 1975. Further, every heating, air conditioning and refrigeration contractor shall display the contractor's certification number and the company name on any and all documentation, forms of advertising, and on all service and installation vehicles used in conjunction with heating, air conditioning, and refrigeration contracting.

The board may annually publish a list of names and addresses of all individuals and the name of their employer, if applicable, who are registered and certified by the board. The board shall also mail, upon request, a list to all qualified individuals so certified and may charge for providing the list. Section 34-31-31, Code of Alabama 1975.

Municipal license officials should ensure that they sell heating, air conditioning, and refrigeration contractor licenses only to properly certified contractors whose names appear in the book published by the Board or who can produce a certificate issued by the board. Contractors that purchase licenses as general contractors, plumbers, steam fitters, tin shop contractors, service and repair contractors, and electrical contractors should be informed by the license official if they perform any heating or air conditioning application of design, installation, service or repair on central HVAC systems, they are probably subject to certification.

**Further information may be obtained by contacting the Alabama Board of Heating, Air Conditioning & Refrigeration Contractors, 100 North Union Street, Suite 986, Montgomery, Alabama 36104, (334) 242-5550, <https://www.hacr.alabama.gov>.**

### **Fire Protection Sprinkler Contractor**

Sections 34-33-1 through 34-33-14, Code of Alabama 1975, authorize the state fire marshal to issue permits to persons qualified to be fire protection sprinkler contractors.

It shall be unlawful for any individual, partnership, corporation, association or joint venture (except local building officials, fire inspectors, or insurance inspectors when acting in their official capacity) to engage in the installation, repair, alteration, addition, maintenance or inspection of a fire protection sprinkler system in the state, except in conformity with the provisions of the law regulating such professions. However, the law should not be construed to apply to fire protection sprinkler system owners who employ registered professional fire protection engineers and skilled workers who regularly and routinely design, install, repair, alter, add to, maintain and inspect sprinkler systems on and within the premises of their employer, provided such systems are for the owner's use only. Section 34-33-3, Code of Alabama 1975.

If a certified fire protection sprinkler contractor desires to do business in any part of the state, he shall deliver to the local building official a copy of his permit issued by the state fire marshal. The local building official shall require a copy of the state fire marshal's permit before issuing a license or building permit. The certified fire protection sprinkler contractor shall be required to pay any municipal license fees, but the local official shall impose no other requirements on the contractor to prove competency, other than proper evidence of a valid state fire marshal's permit. Section 34-33-8, Code of Alabama 1975.

Nothing in the law limits the power of a municipality to regulate the quality and character of work performed by a fire protection sprinkler contractor I or II through a system of fees, permits and inspections, which are designed to ensure compliance with state and local building laws. Section 34-33-9, Code of Alabama 1975.

Nothing in the law limits the power of a municipality to adopt any system of permits requiring submission to and approval by the municipality of plans and specifications for work to be performed by a fire protection sprinkler contractor I or II before commencement of the work. If plans for a fire protection sprinkler system are required to be submitted to and approved by any municipality, the plans must bear the permit number of the certified fire protection sprinkler contractor or proof that the person, firm or corporation that designed such system is an exempt owner under Section 34-33-3, Code of Alabama 1975, as amended. Section 34-33-9, Code of Alabama 1975.

The law also applies to any fire protection sprinkler contractor I or II performing work for any county, municipality or the state. Officials of a municipality, county or the state are required to determine compliance with this law before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid permit from the state fire marshal. Section 34-33-10, Code of Alabama 1975.

**Further information may be obtained from the Alabama State Fire Marshal, 201 Monroe Street, Montgomery # 1790, Alabama 36130, (334) 241-4166, <https://www.firemarshal.alabama.gov>.**

### **Homebuilders**

Section 34-14A-1 to Section 34-14A-20, Code of Alabama 1975, establishes a nine-member Home Builders Licensure Board to examine and license persons in the home building industry. Section 34-14A-2(16) defines a "residential home builder" 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 which is not over three floors in height and that does not have more than four residential units, or the repair, improvement, or re-improvement thereof, to be used by another as a residence when the cost of the undertaking exceeds ten thousand dollars (\$10,000). The term includes a residential roofer when the cost of the undertaking exceeds two thousand five hundred dollars (\$2,500).”

The law provides that nothing 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 such undertaking through advertising or otherwise, in the state shall be deemed to have engaged in the business of residential home building. Section 34-14A-2(16), Code of Alabama 1975.

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. The board may issue licenses that vary in scope of work authorized, including, but not limited to, licenses without limitation and with limitation. 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. The board may charge varying fees for licenses. Section 34-14A-5, Code of Alabama 1975. This law does **not** apply to:

1. Any employee of a licensee who does not hold himself or herself out for hire or engage in residential home building, except as such employee of a licensee.
2. An authorized employee of the United States, the State of Alabama, or any municipality, county, or other political subdivision, if the employee does not hold himself or herself out for hire or otherwise engage in residential home building except in accordance with his or her employment.
3. General contractors holding a current and valid license, issued prior to January 1, 1992, under Chapter 8 of this title.
4. Real estate licensees, licensed engineers, and licensed architects operating within the scope of their respective licenses on behalf of clients.
5.
  - a. Owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale. This exception may not be transferred to any other person, including, but not limited to, an agent through a power of attorney.
  - b. In any action brought under this chapter, proof of the sale or offering for sale of such structure by the owners of property, as provided in this subdivision, within one year after completion of same is presumptive evidence that the construction was undertaken for the purpose of sale.
6. Mobile homes or any structure that is installed, inspected, or regulated by the Alabama Manufactured Housing Commission or the repair, improvement, or re-improvement of any such structure, and shall not in any way change or interfere with the duties, responsibilities, and operations of the Alabama Manufactured Housing Commission as defined in Sections 24-4A-1 through 24-6-4. Section 34-14A-6, Code of Alabama 1975.

A complete roster of licensees shall be prepared and published annually by the board. Section 34-14A-9, Code of Alabama 1975.

County commissions are authorized to adopt building codes to apply to unincorporated areas of the county. The county building laws and code may apply in the corporate limits of a municipality with the express consent of the governing body of a municipality. Section 34-14A-12, Code of Alabama 1975.

In Act 2024-443, the state legislature created the Alabama Residential Building Code and the Alabama Residential Energy Code. The Alabama Residential Building Code shall be enforced by local jurisdictions that have permitting and inspection programs for residential construction and improvements adhered to by residential home builders. The Alabama Residential Energy Code shall be enforced by local jurisdictions that have adopted energy code provisions for residential and commercial construction and improvements.

The Alabama Building Code shall not supersede any local residential building code adopted by any county or municipality in effect on January 1, 2027. A local building code adopted by any county or municipality after January 1, 2027, must meet the minimum standards of the Alabama Residential Building Code and the Alabama Residential Energy Code in effect at the time of the local building code adoption.

Local building codes may amend the standards as local conditions require, but the amendments shall not exceed the provisions of the Alabama Residential Energy Code unless local conditions or compliance with any federal mandate requires such adoption.

County commissions, municipalities and other public entities are authorized to enter into mutual agreements, compacts and contracts for the administration and enforcement of their respective building laws and codes. Section 34-14A-12, Code of Alabama 1975.

It is the duty of a municipal building official, or other person given the authority to issue building and other permits and to refuse to issue a permit for any undertaking which would require a license from the Home Builder Licensure Board unless the applicant has furnished evidence that he or she is either licensed as required by the law or is exempt from the requirements of the law. The building official is required to notify the board of suspected violators. Section 34-14A-13, Code of Alabama 1975.

In reference to building permits, Section 34-14A-13, Code of Alabama 1975, requires building officials who issue building permits and certificates of occupancy to do so without requiring the payment of license fees for subcontractors who will be or were involved in the construction. This law also requires a builder to submit to the municipality a listing of all subcontractors involved in the construction project within 15 days of the issuance of the building permit by jurisdiction requiring building permits. If subcontractors are added, the builder must submit the name, address and phone number of the subcontractor(s) to the municipality within three days of hiring. In addition, an updated list of subcontractors is to be furnished by the builder before the issuance of a certificate of occupancy by the municipality, where certificates of occupancy are required.

**Further information may be obtained from the Alabama Home Builders Licensure Board, 445 Herron Street, Montgomery, AL 36130, (334) 242-2230, <https://www.hblb.alabama.gov>.**

### **Private Auditors**

Section 40-12-43.1, Code of Alabama 1975, requires private examining or collecting firms as defined in Section 40-2A-3(17) to obtain a license from the state before entering into any contract for the collection of local sales, use, rental, lodgings or other taxes or license fees. No private examining or collecting firm may receive a license unless it has complied with the provisions of Title 40, Chapter 2A (the Taxpayer Bill of Rights), and Section 40-12-43.1.

**Further information may be obtained from the Alabama Department of Revenue, 4112 Gordon Persons Bldg., 50 N. Ripley Street, Montgomery AL 36104, (334) 242-1170, [www.revenue.alabama.gov](http://www.revenue.alabama.gov).**

### **Other State Licensing Requirements of Interest**

While the above listed professions place more specific responsibility on municipal officials to obtain proof of licensure, many other professions licensed by the state deserve special consideration by municipal officials.

### **Private Investigators**

Sections 34-25B-1 through 34-25B-29, Code of Alabama 1975, establishes an eight- member, quasi-judicial board to regulate and prohibit persons from acting as a private investigator or a private investigator apprentice without a license. A private investigator apprentice is any individual who is engaged in private investigation under the supervision of a licensed private investigator.

The Alabama Private Investigation Board is given authority to promulgate rules, establish canons of ethics and hire personnel necessary to implement the Alabama Private Investigation Regulatory Act. Section 34-25B-8, Code of Alabama 1975.

A Division of Investigation is created within the board to serve as the board's official investigative agency. The board or an executive director of the board may subpoena those persons or documents necessary to any investigation undertaken under the Alabama Private Investigation Regulatory Act. Section 34-25B-25, Code of Alabama 1975. The Attorney General shall provide legal services to the board and board employees in connection with official duties and actions of the board. Section 34-25B-8, Code of Alabama 1975.

Three members are appointed by the Governor, two of whom shall be private investigators in Alabama and one of whom shall be a consumer who will represent the public at large. The Lieutenant Governor, Speaker of the House of Representatives, Attorney General and Alabama Private Investigators Association each appoint a member who must be a private investigator. The Alabama State Bar Association also appoints a member who must be a good member in standing with the State Bar. Section 34-25B-4, Code of Alabama 1975.

**Further information may be obtained from the Alabama Private Investigation Board, 60 Commerce St., Suite 1440, Montgomery, AL 36104, (334)- 801-9579, <https://www.apib.alabama.gov>.**

### **Electrical Contractors**

Sections 34-36-1 through 34-36-18, Code of Alabama 1975 establish a state licensing board known as the Alabama Board of Electrical Contractors for the purpose of testing and licensing electrical contractors. Electrical contracting is defined by the



law to mean “any job or project in the state of Alabama wherein the electrical contractor proposes to bid, install, maintain, alter or repair any electric wiring devices or equipment.” Section 34-36-3, Code of Alabama 1975.

Section 34-16-13, Code of Alabama 1975, provides that no person shall engage in the electrical contracting business, unless such person shall have received a license from the board or from the county or municipality where the contract work is being performed. Exemptions to this requirement can be found in Section 34-36-13, Code of Alabama 1975. Prior to 2010, the law with regard to electrical contractors provided that a state license for an electrical contractor was not required if the contractor was licensed by a local governing authority and engaged in electrical contracting only in that jurisdiction. In 2010, the Legislature passed Act 2010-540 which amended many of the provisions relating to electrical contractors including requiring that any person engaged in electrical contracting be licensed by the state. See Section 34-36-16(b), Code of Alabama 1975. However, Section 34-36-13 remained unchanged. The Attorney General has determined that Section 34-36-16(b) of the Code of Alabama 1975 (as amended in 2010) prevails over Section 34-36-13 and therefore, every electrical contractor operating in Alabama must obtain a state license from the Board of Electrical Contractors before engaging in the business of electrical contracting except as provided for in Section 34-36-16(c). AGO 2010-046.

The board shall examine applicants at least once every three months according to the method deemed to be the most appropriate to test the qualifications of applicants. Any national standardized examination which the board shall approve may be administered to all applicants in lieu of or in conjunction with any other examination which the board shall give to test the qualifications of applicants. The board shall also have the right to establish such norms of achievement as shall be required for a passing grade. The board may recognize a license issued by any other state that, in the opinion of the board, has standards of practice or licensure equal to or higher than those required by the board. No license shall be issued except in compliance with this chapter and none shall be issued except to a person or a person in a firm, partnership, association or corporation. A firm, partnership, association or corporation, as such, shall not be licensed. Section 34-36-7, Code of Alabama 1975.

**Further information may be obtained from the Alabama Electrical Contractors Board, 2777 Zelda Road, Montgomery, AL 36106, (334) 420-7232, <https://aecb.alabama.gov/>.**

## **Plumbers and Gas Fitters**

Sections 34-37-1 through 34-37-18, Code of Alabama 1975, were adopted by the Legislature to regulate plumbers and gas fitters. The State of Alabama Plumbers and Gas Fitters Examining Board is given authority to examine, license and regulate plumbers and gas fitters on a statewide basis. Section 34-37-2, Code of Alabama 1975.

It shall be unlawful for any person or other legal entity to contract, engage in, offer to engage, or convey the impression that he or she is certified in plumbing, gas fitting, or medical gas piping within the State of Alabama unless the person has first registered or received a certificate of competency and unless such certificate is in force and effect at the time the plumbing, gas fitting, or medical gas piping is offered, performed, directed or superintended. Section 34-37-6, Code of Alabama 1975. This law does not apply to the following acts: work and conduct, which may be performed by anyone, without registration or certificate, provided all work and services herein named or referred to shall be subject to inspection and approval in accordance with the terms of all state laws and applicable municipal ordinances:

- plumbing work done by anyone who is regularly employed or acting as a maintenance person incidental to and in connection with the business in which he or she is , provided the plumbing work is done on the premises of the employer and who does not engage in the occupation of a plumber for the general public;
- plumbing work done upon the premises or equipment of a railroad other businesses or industry, by an employee thereof who does not engage in the occupation of a plumber for the general public;
- plumbing or gas fitting work done, not on private property, with the exception of easements by persons engaged by any public utility company in the laying, maintenance and operation of its service mains or lines and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, and equipment, provided such work does not alter gas piping on the consumer side of the meter;
- Any person engaged solely in the testing of backflow devices;
- Plumbing work performed by a property owner in or about a building owned or occupied by the owner;
- any person may install washing machines to existing piping installation or waste lines provided such plumbing work does not necessitate tying into water or sewer lines on the outlet side of the trap. Section 34-37-15, Code of Alabama 1975.

Further, the law does not apply to any plumbing work done by a property owner in or about a building owned or occupied by him or her, or plumbing work done by anyone who is regularly employed by the property owner to provide maintenance or other repair services if the work is incidental to and in connection with the property for which he or she is employed and engaged and is done on the premises of the employer. Section 34-37-15, Code of Alabama 1975.

No license issued by the board can be sold or transferred. Any license which is misused may be revoked by the board. Section 34-37-16, Code of Alabama 1975.

The board has the authority to levy civil fines or penalties to any registered apprentice, certificate holder, or legal entity registered by the board for a violation of any provision of this chapter regulating plumbers, gas fitters, or medical gas pipe fitters up to two thousand dollars (\$2,000) per violation and actual hearing cost. In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person or legal entity engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the person or legal entity to forthwith cease and desist from the activity, conduct, practice, or performance of any work then being performed or about to be commenced. Any person convicted of violating the law shall be punished as a Class A misdemeanor. Section 34-37-17, Code of Alabama 1975.

**Further information may be obtained from the Alabama Plumbers and Gas Fitters Examining Board, 216 Aquarius Drive, Homewood, AL 35209, (205) 945-4857, <https://pgfb.alabama.gov>.**

### **Elevator Inspectors**

The Elevator Safety Act is codified at Sections 25-13-1 through 25-13-25, Code of Alabama 1975. The Act does preempt municipal authority over inspection or regulation of the devices and the Act places the inspections under the jurisdiction of the Elevator Safety Review Board. Section 25-13-6, Code of Alabama 1975.

Devices controlled by this board include elevators, dumbwaiters, escalators, moving sidewalks, platform lifts, stairway chairlifts and automated people movers. Section 25-13-3, Code of Alabama 1975. The board has the authority to control the design, construction, operation, inspection, testing, maintenance, alteration and repair of these devices. Section 25-13-6, Code of Alabama 1975. There are certain exceptions to these definitions, which are listed in Section 25-13-3, Code of Alabama 1975.

The Act provides that anyone wishing to perform any work on any of the covered devices or who wishes to inspect work done on any of these devices, must first obtain a license from the board. Section 25-13-4, Code of Alabama 1975. The Act spells out the type of training and examinations these individuals must pass. Sections 25-13-8 through 25-13-11, Code of Alabama 1975. Further, the Act mandates annual inspections of elevators in public access buildings and the inspection of all buildings under construction to make sure elevators are properly installed and maintained. Subsequent to inspection, the licensed elevator inspector shall supply the property owner or lessee and the administrator with a written inspection report describing any and all violations. Property owners shall have 30 days from the date of the published inspection report to be in full compliance with correcting the violations. Section 25-13-24, Code of Alabama 1975.

**Further information may be obtained from the Alabama Department of Labor, Elevator Safety, (334) 956-7404, [https://labor.alabama.gov/Inspections/contacts\\_boilers\\_elevators.aspx](https://labor.alabama.gov/Inspections/contacts_boilers_elevators.aspx).**

### **Onsite Wastewater Systems**

Section 34-21A-1, Code of Alabama 1975, allows the Alabama Onsite Wastewater Board to license persons engaged in the manufacture, installation or servicing of onsite wastewater systems in Alabama. There are six types of licenses under Section 34-21A-12 based on the qualifications of the applicant and type of service the applicant performs:

1. A basic level installer license.
2. An advanced level I installer license.
3. An advanced level II installer license.
4. A manufacturer's license.
5. A pumper license.
6. A portable toilet license.

The basic level license is for the installation, cleaning, servicing, repairing or maintenance of an alternative onsite wastewater system; this must be obtained first before obtaining the advanced level license. An advanced level license is for the installation, cleaning, servicing, repairing, or maintenance of an alternative onsite wastewater system. A manufacturer's license may be obtained for those involved in the manufacture of onsite wastewater septic tanks and receptacles. Section 34-21A-12, Code of Alabama 1975.

**Further information may be obtained from the Onsite Wastewater Board, 60 Commerce Street, Ste. 1050, Montgomery, AL 36104, 334-353-9250, <https://aowb.alabama.gov>**

## License as Proof of Ability

Although the Code does not require municipal officials to obtain proof of state certification of electrical contractors, Section 34-36-13, Code of Alabama 1975, provides that any person who holds a valid statewide license shall be deemed qualified and, upon satisfactory proof of said license, shall be allowed to perform electrical work in any county or municipality under the terms and conditions set forth in the law without further testing, provided the proper county or municipal building permit and business licenses have been acquired. All persons performing work under a license issued by the board must abide by all state and local laws and ordinances.

Similar rules apply to alarm system installers, Section 34-1A-8(a), Code of Alabama 1975; liquid petroleum gas servicemen, Section 9-17-105(i), Code of Alabama 1975; boiler, pressure vessel installation permit, Section 25-12-5, Code of Alabama 1975; plumbers and gas fitters, Section 34-37-8(b), Code of Alabama 1975; elevator mechanic license, Section 25-13-4, Code of Alabama 1975; and operators of commercial motor vehicles, Section 32-9A-2, Code of Alabama 1975.

Additionally, Section 40-12-135, Code of Alabama 1975, provides that an oculist, optometrist or optician who has procured a license in the municipality where his or her principal office is located may practice the profession in any other place without having to pay a license.

## Where Proof of Certification Not Specifically Required

Although not required by the Code, many professions are licensed and certified by the state. Long lists of these occupations appear in Title 40, Chapter 12, and in Title 34 of the Code of Alabama 1975. In the case of certification programs, many professions have boards and agencies which test persons before certifying them. Even though municipal licensing officials are not required to obtain proof that persons wishing to work in these jobs are properly certified by the state, demanding evidence of certification may help protect the public by ensuring that only state-approved individuals are working in the municipality.

The municipality should also require proof of a valid, current state license. Of course, in many instances, the state requires only a license rather than certification. In these cases, it seems prudent to request proof of state licensure prior to issuing a municipal license. The fact that the state license has not been revoked or cancelled is at least some indication that few, if any, complaints have been lodged against those individuals. Again, this helps ensure the quality of the work in areas that aren't certified by the state.

Beyond a moral desire to protect municipal citizens, there is also the possibility of municipal liability for allowing unlicensed or uncertified professionals to work in the municipal limits. This prospect may be remote, unless the municipality takes active steps toward endorsing the work of an individual or company. Substantive immunity probably bars municipal liability in these cases. *Hilliard v. Huntsville*, 585 So.2d 889 (Ala. 1991). Even without substantive immunity, since there is no mandatory duty to check for a license, municipal liability is remote. *See also, Foley v. McLeod*, 709 So.2d 471 (1998), where the Alabama Supreme Court held that the failure to enforce a municipal zoning ordinance did not prohibit the municipality from enforcing the ordinance in the future, provided that the municipality gave the public notice of its intent. Still, it appears better to take a pro-active role in guarding against faulty work by unqualified individuals by requiring proof of state licensing and/or certification.

## Selected Attorney General's Opinions and Court Decisions

**NOTE:** In reviewing these cases and opinions, the \$20,000 requirement for obtaining state certification has been raised to \$50,000. Persons with questions should verify the proper amount. These summaries are not intended as a substitute for reading the opinion or decision itself.

- The Alabama Supreme Court has held that a successful bidder for carpet replacement need not be a licensed general contractor as required by Section 34-8-1, Code of Alabama 1975. *McCord Contract Floors, Inc. v. Dothan*, 492 So.2d 996 (1986).
- Title 46, 34-8-6, Section 77, prohibits persons from receiving or considering a bid for certain construction projects from anyone not properly licensed as a general contractor. However, the fact that a general contractor is not properly licensed at the time bids are opened does not appear to be significant if the contractor is properly licensed when the contract work is awarded and performed. AGO to Hon. Dennis A. Moore, March 25, 1977.
- The term "construct" is not the same as the term "repair" and repair jobs need not be given to a general licensed contractor. AGO to Hon. T.E. Martin, February 6, 1970.
- A city may award a contract for roofing repair to a bidder who otherwise qualifies whether or not such bidder is a licensed general contractor. AGO 1982-145 (to Hon. Billy L. Carter, January 19, 1982).

- When a contractor who has never constructed a building in the city buys property and begins to construct a funeral home thereon under an agreement whereby the contractor will resell the property to the original owner following completion of the construction project, said contractor is subject to the law which requires contractors to buy business licenses. AGO to Hon. David W. Lang, July 11, 1975.
- A contractor need not be licensed by the state in order to do repair work in excess of \$20,000. AGO 1980-273 (to *Howard v. Adair*, March 18, 1980).
- A person or firm bidding on a re-roofing job in excess of \$20,000 does not have to be licensed as a general contractor by the state board, even when the job consists not only of re-roofing but also repairs which are structural in nature. AGO 1980-254 (to Hon. Sara G. Crumpton, March 18, 1980).
- The Alabama Supreme Court held in *Louisiana Well Service v. Metfuel*, 614 So.2d 1039 (1993), that contractors engaged in oil and gas well drilling do not fall within the definition of “general contractor” in the licensing statute.
- An owner is exempt from licensure as a general contractor if the owner is himself or herself constructing a building or other improvement on his own property. AGO 1994-057.
- Where a municipality acts as its own contractor pursuant to Section 34-8-7, Code of Alabama 1975, the municipality must use licensed subcontractors if the project will cost \$20,000 or more. If the municipality elects to use a general contractor to oversee the project, subcontractors do not have to be licensed. In either case, subcontractors whose work does not exceed \$20,000 are exempt from the licensing requirements. AGO 1997-053.
- The city’s superintendent of construction, working under the supervision of a licensed architect or engineer, is exempt from obtaining a license under Section 34-8-1. Under the facts represented here, the city may use either the services of an architect or a civil engineer, or both, in the design and construction of a 5,500 square-foot building which will house an auditorium, office space and a workshop. AGO 1988-205.
- Local officials may not issue a building permit for the construction of apartments unless the plans have been approved by either a registered architect or a licensed professional engineer. AGO 1992-211.
- A municipality is not required to use the services of a licensed engineer to resurface roads. AGO 1988-289.
- The Alabama Supreme Court held that the Water Works and Sewer Board of the City of Prichard was not entitled to a summary judgment in a contract action after the board attempted to void a contract with an engineering firm on the basis that the person executing the contract for the firm was not a licensed engineer. *Water Works and Sewer Board of Prichard v. Polyengineering*, 555 So.2d 1050 (1990).
- Full-time employees of a city housing authority do not have to be licensed as plumbers in order to perform routine maintenance repair work on projects owned by the housing authority, unless they engage in the occupation of plumber for the general public. AGO 1992-202.
- Persons, firms or corporations “installing piping, fittings and system components used with LP-gas” are required to obtain a permit under Section 9-17-105, Code of Alabama 1975. Proper privilege licenses must also be acquired. AGO 1983-485 (to Hon. Leonard Pakruda, September 22, 1983).
- A corporation doing repair work on condominiums is not required to obtain a general contractor’s license; however, the installation of new electrical service and new HVAC does require such a license. AGO 1986-068 (to Hon. Beth Marietta, December 2, 1985).
- Contractors involved in the installation of roofing on residential structures, and on buildings where commercial activity takes place are exempt from the requirements of law dealing with the licensing of heating, air conditioning, roofing and sheet metal contractors. AGO 1982-023 (to Mr. Richard Simmons, October 20, 1981). A town may issue building permits, perform inspections and enforce building codes in the police jurisdiction. AGO 1982-252 (to Dr. Thomas B. Norton, March 22, 1982).
- Cities may issue licenses to air conditioning and heating contractors who have not been board certified until such time as the new certification requirements of 34-31-18, et seq., have been met. AGO 1983-092 (to Hon. W.F. Dykes, Jr., December 7, 1982).
- The Heating and Air Conditioning Contractors Board has no discretion to “grandfather” a person who has not complied with Code of Alabama 1975, Section 34-31-28(b). AGO 1986-026 (to Hon. Richard Simmons, October 25, 1985).

- Individuals employed by gas districts to install heating and air conditioning systems must be certified. AGO 1986-194 (to Hon. Seth Hammett, March 24, 1986).
- The fact that a person or business which does heating and air conditioning work for which certification is required obtains a license under Section 40-12-84 does not relieve him of the obligation to meet the requirement for certification under Section 34-31-18, et seq. AGO 1987-059.
- The Attorney General has advised that a city building official is not prohibited from approving plans for a church, school or place of assembly if the plans bear a registered professional engineer's seal but not a registered architect's seal. AGO 1982-444 (to Hon. George E. Little, July 15, 1982).
- The Attorney General has further advised that final acceptance and approval of plans for schools, churches, auditoriums and buildings intended for the mass assemblage of people, and other non-farm buildings whose total cost is \$50,000 or more can only be given by the municipal building official after review for compliance with applicable codes and ordinances. However, before such plans can receive consideration, they must, under state law, bear the seal of a registered architect or engineer. AGO 1983-149 (to Hon. Steve Means, January 27, 1983).
- A municipality may not impose a business license fee on an auctioneer or an auction company licensed by the state. AGO 1998-035
- Licenses professional engineers may perform architectural services incidental to their engineering practice and registered architects may perform engineering services incidental to their architectural practice. AGO 2003-009.
- Residential home builder who performed residential remodeling at the request of a homeowner was not exempt from the licensing requirements under the licensure laws which exempt from licensing owners or property under certain conditions. This exemption does not extend to those who might perform work at the owner's direction. *Hooks v. Pickens*, 940 So.2d 1029 (Ala. Civ. App. 2006).
- Licensed electrical contractors who install conduit, wire, and fire alarm associated equipment, but do not design, program, certify, inspect, or test fire alarm systems in this state are not subject to the licensing requirements for certified fire alarm contractors. AGO 2010-042.
- A City that was located within a county that had elected to be covered by the home remodeling regulation statutes (Section 34-14A-1 et seq., Code of Alabama 1975), which allowed homeowners to seek compensation from the Homeowner's Recovery Fund for damages sustained as a direct result of the conduct of licensed contractors, was subject to the statute even absent its express consent to come under the law. A homeowner was thus entitled to assert a negligence claim against the City for its failure to confirm contractor's licensure status before issuing a building permit, which in turn prevented the homeowner from seeking relief from said Fund. *Murry v. City of Abbeville*, 997 So.2d 299 (Ala.2008).
- City housing authority's application for general contractor's license was not denied by operation of law when it was not granted by Licensing Board for General Contractors within one year of the original application date, and thus Board retained power to issue written decision on the application as required by Alabama Administrative Procedure Act (AAPA). *Huntsville Housing Authority v. State of Alabama Licensing Bd. for General Contractors*, 179 So.3d 146 (Ala.Civ.App.2014).
- Section 34-36-16(b) of the Code of Alabama prevails over section 34-36-13(a), and therefore, every electrical contractor operating in Alabama must obtain a state license from the Board of Electrical Contractors before engaging in the business of electrical contracting, except as provided in section 34-36-16(c). AGO 2012-046.
- A municipality may require a business engaged in "Truck Transportation" to pay a license fee based on all of the gross receipts of the business from whatever source derived when the business is not required to purchase a business license from any other municipality and the only physical location for that business is located within the municipal limits or its police jurisdiction. AGO 2012-054.
- Because there are no licensure exemptions for official court reporters pursuant to state law, official court reporters are required to be licensed by the Alabama Board of Court Reporting. AGO 2012-064.
- Montgomery County Circuit Court was the only proper venue for a foreign corporation's appeal from the denial of a refund petition by a Jefferson County municipality, where the corporation had no principal place of business in Alabama. *Ex parte Tellabs Operations, Inc.* 84 So.3d 53 (Ala.2011).

- A municipality's policy of automatically denying permits for new applicants and automatically renewing permits for existing permit holders violated the dormant Commerce Clause. *Florida Transp. Services, Inc. v. Miami-Dade County*, 703 F.3d 1230, (11<sup>th</sup> Cir.2012).
- A city, by ordinance, may cease requiring building permits for construction. A county commission may require permits in the corporate limits if the city council consents for the county to apply its building codes. AGO 2019-023.

*Revised 2024*

