

HEATING AND AIR CONDITIONING CONTRACTORS

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Section 34-31-18

Definitions.

For the purposes of this chapter, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

(1) Certified contractor.

Any individual or any regularly employed person for any partnership or corporation who for hire is engaged in the installation or service and repair of heating and air conditioning systems; provided that nothing in this chapter shall apply to retail sellers of heating and air conditioning systems who do not install said systems themselves. A certified contractor is authorized to install or service and repair or replace natural gas heating and air conditioning appliances, including specifically the servicing, repair, or replacement of those appliances in manufactured housing set up as stationary housing, but excluding the piping to such appliances, and except as otherwise prohibited by law.

(2) Installation.

The act of setting up or installing a heating and air conditioning system for operation and use.

(3) Service and repair.

The act of maintaining for operation a heating and air conditioning system which has previously been installed including parts replacement within a piece of equipment, including but not limited to, systems previously installed in manufactured housing set up as stationary housing.

(4) Board.

The State Board of Heating and Air Conditioning Contractors, herein established.

(5) Heating and air conditioning systems or System.

A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums or blowers including any accessory and equipment installed in connection herewith; specifically excluding window units, automotive or farm implement type heating and/or air conditioning equipment.

(6) Administrative Procedures Law.

Sections 41-22-1 through 41-22-27, and any subsequent amendment or supplement thereto, and any rules or regulations promulgated thereto.

(7) Responsible charge.

The direction of projects involving the installation or service and repair of heating and air conditioning systems requiring initiation, professional skills, technical knowledge and independent judgment.

(Acts 1982, No. 82-547, p. 900, §3.1; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3; Acts 1992, No. 92-180, p. 333, §3.)

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Section 34-31-19

Purpose.

The purpose of this chapter is to certify qualified contractors on a state-wide basis in order to protect the public by identifying those contractors who have the knowledge and ability to install or service and repair heating and air conditioning systems.

(Acts 1982, No. 82-547, p. 900, §3.2; Acts 1988, No. 88-217, p. 339, §3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3.)

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Section 34-31-20

Board of Heating and Air Conditioning Contractors - Creation; composition; transfer of property, etc.

(a) There is created the Board of Heating and Air Conditioning Contractors. The board shall consist of 12 members, who shall be subject to confirmation by the Senate. The seven initial appointments shall be effective as of July 1, 1982 as follows: One member shall be appointed by the Governor for an initial term of one year, and shall be a licensed professional engineer; one member shall be appointed by the Governor for an initial term of four years and shall be a heating and air conditioning contractor; one member shall be appointed by the Lieutenant Governor for an initial term of three years and shall be a trade representative of an equipment manufacturer or supplier; one member shall be appointed by the Governor for an initial term of three years and shall be a consumer from the general public; one member shall be appointed by the Speaker of the House of Representatives for an initial term of two years and shall be a trade representative of the service, repair parts industry; one member shall be appointed by the Lieutenant Governor for an initial term of two years, and shall be a representative from county or local inspection services department; and one member shall be appointed by the Speaker of the House of Representatives for an initial term of three years, and shall be a consumer from the general public. Three additional members shall be appointed to serve four-year terms beginning on January 1, 2001. Each of these three additional members shall be heating and air conditioning contractors. One of these additional members shall be appointed by the Governor, one of these additional members shall be appointed by the Lieutenant Governor, and one of these additional members shall be appointed by the President Pro Tempore of the Senate. An additional two members, who shall be heating and air conditioning contractors, shall be appointed by the Speaker of the House of Representatives for initial terms of three years. Their successors, who shall be appointed by the same respective appointing authorities, and shall possess the same respective occupational qualifications, shall each serve not more than two consecutive terms of office of four years each and until their successors are appointed and qualified. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) All moneys, equipment, and property of the board created pursuant to Sections 34-31-1 through 34-31-17, inclusive, shall, effective July 1, 1982, be transferred to the board created in subsection (a). The board shall pay all money received under this chapter to the State Treasurer, who shall keep the money in a separate fund for the board. All money remaining at the end of the fiscal year which exceeds 25 percent of the board's budget for the previous year shall be transferred to the State General Fund.

(Acts 1982, No. 82-547, p. 900, §3.3; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1; Acts 1988, No. 88-217, p. 339, §3; Acts 1996, No. 96-748, p. 1318, §3; Act 2000-745, p. 1658, §1; Act 2004-67, p. 82, §3.)

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Section 34-31-21

Board of Heating and Air Conditioning Contractors — Officers; meetings; power and duties.

(a) The board shall elect from among its members a chairman, vice-chairman, and a secretary. The board may hire an executive director to serve at the pleasure of the board. The board may require the executive director to perform the duties required by this section and any other tasks required by the board. The board shall set the salary of the executive director. The board may employ a deputy director who shall serve at the pleasure of the board. The salary and compensation for the deputy director shall be set by the board and shall not exceed the salary set for the executive director.

(b) The chairman shall preside over meetings of the board. The vice-chairman shall preside over meetings of the board in the absence of the chairman. The chairman shall designate another member to preside in the absence of the chairman and vice-chairman.

(c) The secretary or, if directed by the board, the executive director shall perform the following tasks:

- (1) Keep all minutes, books, records, and files of the board.
- (2) Issue all certificates in the name of the board.
- (3) Send all notices and attend to all correspondence directed by the board.
- (4) Receive and deposit all fees.
- (5) Perform all incidental duties of the office as directed by the board.

(d) The secretary shall give bond, payable to the Governor, in the penal sum of \$5,000.00 for the faithful performance of his duties, and the premium therefor shall be paid from the fees of the board.

(e) No moneys shall be withdrawn from the funds of the board except by direction of the board as provided by state law.

(f) A majority of the board shall constitute a quorum for the transaction of all business.

(g) The board is also authorized to adopt and publish minimum repair and service standards for its certified contractors, and shall mail a copy thereof to every certified contractor at least 30 days before the standard of criteria becomes effective. Certified contractors who fail to comply with such minimum standards and criteria shall be punished as prescribed in Section 34-31-32(a).

(h) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to take such disciplinary actions as are authorized in subsection (c) of Section 34-31-32.

(Acts 1982, No. 82-547, p. 900, & sect;3.4; Acts 1986, No. 86-118, p. 143, & sect;3; Acts 1988, No. 88-217, p. 339, & sect;3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, & sect;3; Acts 1992, No. 92-180, p. 333, & sect;3; § Act 2000-745, § 1.)

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Section 34-31-22

Board of Heating and Air Conditioning Contractors — Compensation.

Each member of the board shall receive one hundred dollars (\$100) per day for attending sessions of the board or its committees and, in addition, shall be reimbursed for such necessary travel expenses as are paid to state employees, to be paid from fees collected.

(Acts 1982, No. 82-547, p. 900, & sect;3.5; Act 2000-745, § 1.)

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Section 34-31-23

Board of Heating and Air Conditioning Contractors — Regular meetings.

The board shall meet in a regular session to perform its lawful duties at least once each three-month period.

(Acts 1982, No. 82-547, p. 900, §3.6.)

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Section 34-31-24

Only certified contractors to advertise, etc.; certificate of qualification required for licensure.

No individual, partnership or corporation shall advertise, solicit, bid, obtain permit, do business, or perform the function of a certified contractor unless the person or persons in responsible charge, as defined in Section 34-31-18(7), are certified contractors.

No official charged with the duty of issuing licenses to any individual, partnership or corporation to operate a business as a certified contractor shall issue such license unless there is presented for inspection a certificate of qualification as provided for herein issued by the board to the individual or to some person in responsible charge with the partnership or corporation.

(Acts 1982, No. 82-547, p. 900, §3.7; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, §3.)

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Section 34-31-25

Application and renewal fees; use of penalties collected.

(a) For the purpose of defraying the expense in carrying out the provisions of this chapter, the board may fix fees to be paid by applicants for certificates, but in no event shall the charges fixed by said board exceed two hundred dollars (\$200). All fees fixed by the board must accompany the application for examination, and no part of said fees shall be refunded. Said fees shall be received by the board and held solely for the purpose of paying the expense of carrying out the provisions of this chapter.

(b) All penalties collected by the board shall be used in the same manner and for the same purpose as fees.

(c) Renewal fees shall be established by the board as to insure adequate funding to support the board. Fees shall not exceed two hundred dollars (\$200) per year. The amount of these fees shall be established by the board on an annual basis to provide adequate funding to support the board and to pay the expenses incurred for applications, examinations, and/or renewals of licenses.

(Acts 1982, No. 82-547, p. 900, & sect;3.8; Acts 1992, No. 92-180, p. 333, & sect;3; Act 2000-745, § 1.)

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Section 34-31-26

Renewal of certificates; inactive status; continuing education.

(a) All certificates provided for herein shall be renewed annually, not later than 90 days after the first day of October of each year. All holders of certificates may be renewed annually, provided that the certified contractor has complied with all provisions of law and rules and regulations of the board thereof, upon payment of a renewal fee set forth by the board as provided for in this chapter.

(b) Any person certified by the board may elect an inactive status certificate by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by the board in an amount not to exceed one-half of the amount set for fees pursuant to Section 34-31-25.

(c) The board shall provide by rule or regulation those activities which an inactive status certificate holder may engage in, and for a procedure for the reinstatement as an active status certificate holder.

(d) The board shall adopt an annual program of continuing education for its certified contractors by January 1 of each year. All certified contractors shall be required to complete eight hours of continuing education over a two-year period. This minimum continuing education requirement will begin during the calendar year 2001. All certified contractors will be required to complete the

minimum continuing education requirements prior to renewal in all years beginning January 1, 2002. The failure to complete the minimum continuing education during the two-year period shall prevent the renewal of the certified contractor's license until proof of compliance with the continuing education requirement is submitted to the board. The board may permit a certified contractor to submit a deficiency plan to the board for approval by January 1 of each year for medical hardships and emergencies that prevent the certified contractor from complying with the continuing education requirements on time. This deficiency plan shall be specific in describing the plan for full compliance with the continuing education requirement and shall be accompanied by a deficiency plan fee established by the board.

(Acts 1982, No. 82-547, p. 900, & sect;3.9; Acts 1992, No. 92-180, p. 333, & sect;3; Act 2000-745, & sect; 1.)

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Section 34-31-27

Form of applications for examinations, certificates and renewal certificates.

All applicants for examinations and certificates and all applicants for renewal certificates shall be required to fill out a form which shall be provided by the board.

(Acts 1982, No. 82-547, p. 900, §3.10.)

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Section 34-31-28

Examination for certification; performance bond; further testing, etc., by localities prohibited.

(a) All prospective certified contractors in this state desiring to qualify in accordance with the provisions of this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his first examination for a certificate shall be entitled to take any subsequent examination, either written or, upon request of the applicant, an oral or practical examination which is equivalent to the written examination, to be held within six months from the date of his first or latest unsuccessful examination.

(b) All persons engaged in the business of installation or service and repair for a period of at least two years prior to September 30, 1988, shall apply with the board for certification not later than August 31, 1992. Such persons shall not be required to stand for an examination, but shall pay the same renewal fees which are charged all other certified contractors.

(c) The board is hereby authorized to require a performance bond in the amount of ten thousand dollars (\$10,000) per year for certified contractors who, upon valid complaint and investigation by the board, are found to have performed substandard installation, service and repair work.

(d) Counties, municipalities, or other local entities are hereby prohibited from requiring any further local testing or other requirements of certified contractors, subject to the payment of any applicable local privilege, license, or business fees or charges.

(Acts 1982, No. 82-547, p. 900, & sect;3.11; Acts 1986, No. 86-118, p. 143, & sect;3; Acts 1988, No. 88-217, p. 339, & sect;3; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, & sect;3; Acts 1992, No. 92-180, p. 333, & sect;3; Act 2000-745, § 1.)

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Section 34-31-29

Examinations generally; reciprocity agreements.

(a) The board shall provide for examinations which test the knowledge, skill, and proficiency of the applicants. Subject matter shall be limited to the following subjects: Safety, basic heating and air conditioning theory, refrigeration as applied to air conditioning, diagnostic trouble shooting, repair or servicing of heating and air conditioning systems, air handling, standard mechanical codes, standard gas codes, standard electrical codes, equipment installations, and duct sizing as they relate to heating and air conditioning.

(b) All test questions shall be prepared to deal with the criteria on a trade level only. Examinations shall be held at such time and place as may be fixed by the board at least once each three-month period. Written notice of the time and place of examinations shall be mailed to all persons who have filed current applications for the examinations of the board.

(c) The board may charge each applicant for examination a reasonable fee based on the actual costs for administering the examinations.

(d) The board may enter into reciprocity agreements with other states to permit Alabama certified contractors to engage in work in other states in exchange for that state's contractors being permitted to perform work in Alabama. This provision recognizes the status of the certified contractor as having passed the examination; however, all fees are required to be paid.

(Acts 1982, No. 82-547, p. 900, & sect;3.12; Acts 1988, No. 88-217, p. 339, & sect;3; Acts 1992, No. 92-180, p. 333, & sect;3, Act 2000-745, § 1.)

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Section 34-31-30

Bond requirement authorized.

The board may, in its discretion, when needed to assure financial stability, and professional competence may, in its discretion, require applicants for certification to post bond for the purpose of insuring performance by the certified contractor of any contract agreement into which he may enter. There shall be no discrimination between contractors similarly situated, and each classification of regulated contractors for bonding purposes must be reasonable in light of the purpose of the bond.

(Acts 1982, No. 82-547, p. 900, §3.13.)

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Section 34-31-31

List of certified contractors.

The board may publish annually a list of names, addresses of all individuals and the name of their employer, if applicable, who are certified by the board, and shall mail a copy of said list to all qualified individuals so certified upon request to do so. The board may require a reasonable fee to cover the cost of producing and mailing said directory.

(Acts 1982, No. 82-547, p. 900, & sect;3.14; Acts 1988, 1st Ex. Sess., No. 88-932, p. 543, & sect;3; Act 2000-745, §1.)

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Section 34-31-32

Violations; penalties.

(a) Any person engaged in business as a certified contractor or performing the functions of a certified contractor in violation of this chapter shall be guilty of a Class A misdemeanor, as defined by the state criminal code.

(b) The board may, at its discretion, impose late penalties on those certified contractors who fail to renew certificates by December 31 of each year. The board may also remove certification from any certified person who fails to renew his or her certificate by the first day of March and require the person to apply for a new certificate. Furthermore, the board may at its discretion, remove, revoke or suspend the certification from any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter, and may require such person to apply for a new certification. The board may, in its discretion, also require the successful re-testing of any such person who applies for a new certification.

(c) The board may reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair, or installation, or who otherwise violates this chapter.

(d) The board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation.

(e) 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, firm, or corporation engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the person, firm, or corporation to forthwith cease and desist from the activity, conduct, practice, or performance of any work then being done or about to be commenced. The order shall be issued in the name of the State of Alabama under the authority of the board. If the person, firm, or corporation to whom the board directs a cease and desist order does not cease or desist the proscribed activity, conduct, practice, or performance of work immediately, the board shall cause to issue in any

court of competent jurisdiction and proper venue, a writ of injunction enjoining the person, firm, or corporation from engaging in any activity, conduct, practice, or performance of work prohibited by this chapter. Upon showing by the board that the person, firm, or corporation has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the courts shall issue a temporary restraining order restraining the person, firm, or corporation from engaging in such unlawful activity, conduct, practice, or performance of work pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after the hearing, commanding the cessation of the unlawful activity, conduct, practice, or performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to this subsection shall not be subject to being released on bond. In the suit for an injunction, the board may demand of the defendant a fine of up to five hundred dollars (\$500) plus costs for each offense. Anyone violating this chapter who fails to cease work, after a hearing and notification from the board, shall not be eligible to apply for a certified contractor's license for a period not to exceed one year from the date of official notification to cease work. The board may withhold approval, for up to six months, of any application from anyone who prior to the application has been found in violation of this chapter.

(Acts 1982, No. 82-547, p. 900, §3.15; Acts 1988, No. 88-217, p. 339, §3; Acts 1992, No. 92-180, p. 333, §3; Act 2000-745, p. 1658, §1, Act 2004-67, p. 82, §3.)

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Section 34-31-33

Procedure.

Said procedures shall be same as those defined in the Alabama Administrative Procedure Act, Chapter 22 of Title 41. The board may establish additional procedures as needed provided that said procedure is published and made public and are not in conflict with the state law.

(Acts 1982, No. 82-547, p. 900, §3.16; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)

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Section 34-31-34

Appeals.

Any appeals to the chapter shall be as defined by the Alabama Administrative Procedure Act, Chapter 22 of Title 41.

(Acts 1982, No. 82-547, p. 900, §3.17; Acts 1983, 2nd Ex. Sess., No. 83-131, p. 137, §1.)