

ALABAMA ONSITE WASTEWATER BOARD



Code of Ala. 1975, §34-21A

LAW

(REVISED DECEMBER 2011)

Section 34-21A-1

Purpose.

The Alabama Onsite Wastewater Board is created to examine, license, and regulate persons engaged in the manufacture, installation, or servicing of onsite sewage systems in Alabama. As more residences are built in rural areas where public sewer hookups and centralized sewage treatment systems are often unavailable, many property owners must rely on onsite sewage systems, such as septic systems, to handle residential waste and sewage. The improper manufacture, installation, service, cleaning, and maintenance of onsite sewage equipment and treatment systems can contaminate and pollute the environment and pose significant harm to public health and the rural environment. This board is created to establish the qualification levels for those engaged in the manufacture, installation, servicing, or cleaning of onsite sewage systems and equipment in Alabama and promote the proper manufacture, installation, and servicing of onsite sewage systems.

(Act 99-571, p. 1265, §1; Act 2010-258, p. 453, §1.)

Section 34-21A-2

Definitions.

The following terms shall have the meanings respectively ascribed to them as used in this chapter unless the context requires a different meaning:

(1) **BOARD.** The Alabama Onsite Wastewater Board.

(2) **CONVENTIONAL ONSITE SEWAGE SYSTEM.** An onsite sewage system consisting of a septic tank, or an Alabama Department of Public Health approved pretreatment device, with effluent discharging into a subsurface effluent disposal medium, where all portions of the effluent disposal field sidewalls are installed below the elevation of undisturbed native soil, including a conventional onsite sewage system as defined by the Alabama Department of Public Health regulations.

(3) **ENGINEERED ONSITE SEWAGE SYSTEM.** An onsite sewage system that varies from conventional onsite sewage system equipment, methods, processes, and installation procedures in accordance with the rules and regulations of the Alabama Department of Public Health.

(4) **GOOD STANDING WITH LOCAL HEALTH AUTHORITIES OR OFFICIALS.** A person in good standing with local health authorities or officials shall have had no substantiated complaints filed against him or her with the local health authorities or officials regarding the work of the person in the onsite sewage industry, and shall be known by the local health authorities or officials to be a person who abides by the rules and regulations of the Alabama Department of Public Health.

(5) GREASE TRAP. A receptacle containing nontoxic, nonhazardous liquid waste generated by a commercial food operation or institutional food preparation facility including, without limitation, fats, oil, grease, and food scraps, whether connected to a city sewer or not, to include a sewage tank, as defined by the Alabama Department of Public Health rules.

(6) INDIVIDUAL. A human person.

(7) INSTALLATION. The act of installing a conventional or engineered onsite sewage system.

(8) LICENSE. A valid and current certificate of qualification issued by the board which shall give the named person to whom it is issued authority to engage in the specialized area and level of qualification described on the certificate.

(9) LICENSEE. A qualified individual holding a license issued by the board.

(10) LICENSING PROCEDURE. The process of testing at the state level to determine the knowledge and skill of an individual with respect to onsite sewage systems, and the issuing of licenses to indicate that an individual has passed the examinations and met all other board-established qualifications for licensure.

(11) LOCAL HEALTH AUTHORITY OR OFFICIALS. The county health department in the county or counties in which a licensee performs work in or is engaged in the manufacture, installation, cleaning, servicing, or maintenance of onsite sewage systems or equipment.

(12) MANUFACTURER. Person engaged in the production of septic tanks or receptacle equipment used in onsite sewage systems.

(13) ONSITE SEWAGE SYSTEM. Any system of piping, treatment devices, pumps, alarms, or other facilities or devices that carry or convey, store, treat, or dispose of sewage (human waste) where the system is not connected to a public sewer, including an onsite sewage treatment and disposal system onsite septic system (OSS) as defined by the Alabama Department of Public Health rules.

(14) RESPONSIBLE CHARGE. The person in responsible charge must direct the projects involving the installation or service and repair of an onsite sewage system under Alabama law. The person in responsible charge must be a full-time employee, owner, partner, or a corporate officer of the partnership, corporation, business trust, or other legal entity. The person in responsible charge must possess the required skill, knowledge, and experience and have the responsibility to supervise, direct, manage, and control the installation, service, or repair activities of the business entity with which he or she is affiliated. The board may examine the technical and personal qualifications of the person in responsible charge and may investigate and/or examine the person's qualifications.

(15) SERVICING. The act of cleaning, maintaining, or repairing an installed onsite sewage system.

(Act 99-571, p. 1265, §2; Act 2002-521, p. 1351, §1; Act 2003-58, p. 83, §3; Act 2010-258, p. 453, §1.)

Section 34-21A-3

Alabama Onsite Wastewater Board.

(a) There is established the Alabama Onsite Wastewater Board. The board shall consist of nine members who shall, at the time of appointment and during the entire time for which appointed, be residents and citizens of Alabama. The initial appointments to the board shall be effective October 1, 1999, with required licensing beginning January 2000, or as soon as possible thereafter. Of the nine members of the board, three members shall be appointed by the Governor, three members shall be appointed by the Lieutenant Governor, and three members shall be appointed by the Speaker of the House of Representatives of the Alabama Legislature.

(b) Of the three members appointed by the Governor, one shall be actively engaged in the business of installing onsite sewage systems and shall serve an initial term of two years. One member appointed by the Governor shall be actively engaged in the business of manufacturing septic tanks and shall serve an initial term of two years. One member appointed by the Governor shall be actively engaged in the business of pumping, servicing, or maintaining onsite sewage equipment and shall serve an initial term of three years. Appointees to these positions on the board shall be licensees of the board or have ownership in a business employing a designated licensee in a position of responsible charge. The appointments and successor appointments by the Governor shall be made from a list of recommendations submitted by the governing board of the Alabama Onsite Wastewater Association, which list of recommendations shall include three individuals recommended for each board position.

(c)(1) Of the three members appointed by the Lieutenant Governor, one member shall be actively engaged in the business of manufacturing septic tanks and shall serve an initial term of four years, and one member shall be actively engaged in the business of installing onsite sewage systems and shall serve an initial term of four years. Appointees to these positions on the board shall be licensees of the board or have ownership in a business employing a designated licensee in a position of responsible charge. These two appointments by the Lieutenant Governor shall be made from a list of recommendations submitted by the governing board of the Alabama Onsite Wastewater Association, which list of recommendations shall include three individuals for each board position.

At the end of the term of the board member serving in the septic tank manufacturing position following June 1, 2010, subsequent appointments to that position shall be to either a person licensed by the board or a person having ownership of a business employing a person who meets all of the following requirements that he or she: Is in a position of responsible charge, provides or rents onsite toilet systems or portable toilet systems, is licensed by the board, has been involved in his or her respective business for

five consecutive years, is in good standing with the local health authorities and the Alabama Department of Public Health.

Subsequent appointees to the onsite system installer position shall be either a licensee of the board or a person having ownership in a business employing a designated licensee in a position of responsible charge.

(2) The Lieutenant Governor shall also appoint a member actively engaged in the development of a training or educational program or instruction in environmental protection, preferably experienced in the area of the sewage industry, and this member shall serve an initial term of three years. This member shall: Have a minimum of six years' experience in the stated area of educational expertise, be in good standing with his or her professional or regulating boards, and possess a reputation of high standards within the academic community.

(d)(1) Of the three members appointed by the Speaker of the Alabama House of Representatives, one member shall be an environmental engineer with training in the onsite sewage industry, be experienced in and have an understanding of the design and construction of onsite sewage systems, and be in good standing with the Alabama Board of Licensure for Professional Engineers and Land Surveyors. This member shall serve an initial term of four years and shall be appointed from a list of three recommendations provided by the Alabama Board of Licensure for Professional Engineers and Land Surveyors.

(2) The Speaker of the House shall also appoint one member who has been actively involved for a minimum of three years in the onsite sewage inspection process and the regulation of onsite sewage systems and is employed by a local county health department or the Alabama Department of Public Health. This member shall serve an initial term of four years.

(3) The Speaker of the House shall also appoint a member who is a consumer who will represent the public at large and who has an interest in the onsite sewage industry. The consumer member may not be engaged in or otherwise connected with any person or firm or corporation or business dealing with the onsite sewage industry and shall serve an initial term of four years.

(e) Upon the expiration of the initial terms of office, and thereafter, all members appointed to the board shall serve four-year terms, or until their successors are appointed. Their successors, who shall be appointed by the same respective appointing authorities and shall possess the same respective qualifications as required for the initial appointees, shall each serve not more than two consecutive terms of office. The membership of the board shall be inclusive and the appointing authorities shall consider the racial, gender, geographic, urban/rural, and economic diversity of the state in making their appointments.

(f) If an appointment of a member to the board is to be made from a list of recommendations from an association, organization, or other board, the list of recommendations shall be submitted to the appointing authority at least 30 days prior to the expiration of the current term of the vacating board member.

(g) An appointing authority may rescind any appointment and replace any board member who is unable or unwilling to fulfill his or her duties to the citizens of Alabama through service on the board and who has not tendered his or her resignation.

(Act 99-571, p. 1265, §3; Act 2003-58, p. 83, §3; Act 2010-258, p. 453, §1.)

Section 34-21A-4

Meetings, compensation, expenses of the board.

(a) Within 30 days after annual appointment of new members, the board shall meet for the purpose of organizing, electing new officers, and transacting such business as deemed necessary. This organizational meeting shall not be considered a regular quarterly meeting of the board.

(b) The board shall meet at least four times a year on a quarterly basis with the board designating the months of the meetings for the coming year at its annual organizational meeting. Regular meetings shall be called by the chair who shall designate the time and place of each regular meeting. The chair or a majority of the members of the board may also call a special meeting of the board.

(c) Board members shall be given at least 10 days' notice of regular meetings and a minimum of five days' notice for special meetings. The executive director shall give notice of any meeting to the media as considered appropriate under the circumstances.

(d) A quorum of the board shall consist of not less than five of the duly appointed members.

(e) Any motion passed by the board requires a majority of those members present.

(f) The members of the board shall receive one hundred dollars (\$100) per day for board meetings and a per diem as recommended by the board consistent with applicable state laws for attending sessions of the board and for time spent in necessary travel to attend meetings of the board. In addition, each member shall be reimbursed for related travel expenses at the same rate as state employees receive, all to be paid from fees collected and deposited in the board fund.

(Act 99-571, p. 1265, §4; Act 2010-258, p. 453, §1.)

Section 34-21A-5

Officers, executive director, and administration of the board.

(a) At its annual organizational meeting, the board shall elect from its members a chair, vice-chair, and a secretary/treasurer for a one-year term of office. No board member shall serve more than three consecutive one-year terms in any one office. The chair shall exercise general supervision of the board's affairs, preside at all meetings, appoint committees, and perform all duties pertaining to the office. The vice-chair, in the absence of the chair, shall perform the duties of the chair. The secretary/treasurer shall perform duties as designated by the board.

(b) The board shall select and employ an executive director who shall serve at the pleasure of the board and who shall be responsible for the administration of board policies. The executive director shall be responsible for employing and supervising other support personnel as directed by the board. The executive director shall be designated as the agent for the board for service of legal process upon the board, act as its recording and corresponding secretary, have custody of and safeguard and keep in good order all property and records of the board, sign all instruments and matters that require approval of the board, and perform all duties as the board may assign or delegate.

(c) The records maintained by the board shall include, without limitation, all of the following:

(1) A permanent record of all license applications, whether accepted or rejected, and supporting documentation and information.

(2) A permanent record of all examination results.

(3) A permanent record of all licenses issued; a permanent record of all investigative, enforcement, and disciplinary actions taken by the board.

(4) All other evidence of the important business of the board.

(d) The executive director may issue a license in accordance with the standards established by the board.

(e) All correspondence to the board, including submission of applications for licenses and requests for information should be made to the executive director at the board's office in Montgomery, Alabama.

(f) The board may employ other full-time or part-time administrative staff, including an administrative assistant and clerical support or others who shall work under the direction and supervision of the executive director.

(g) All board administrative staff, including the executive director, shall be entitled to reimbursement for authorized travel and travel related expenses at the same rate state employees receive for in-state and out-of-state travel. Authorized travel in a board employee's personal automobile shall be reimbursed at the same rate per mile as paid to state employees.

(h) The chair and executive director shall, before entering the duties of their offices, make and file with the Secretary of State an official bond in the sum of five thousand dollars (\$5,000) unless covered by the state blanket bond. The appropriate premiums on the bonds shall be paid out of the funds of the board. The bonds shall be executed by an approved bonding fidelity or guaranty company qualified to do business in Alabama and acceptable to the Secretary of State.

(Act 99-571, p. 1265, §5.)

Section 34-21A-6

Funding and financial administration of the board.

(a) There is hereby established a separate special fund in the State Treasury to be known as the "Alabama Onsite Wastewater Board Fund." All receipts and monies collected under this chapter shall be deposited in the fund and used only to carry out the provisions of this chapter. The fund shall be disbursed only by warrant of the state Comptroller upon the State Treasury upon itemized vouchers approved by the executive director. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriation bill or other appropriation bills.

(b) Any funds unspent and unencumbered at the end of each fiscal year that exceed 25 percent of the board's budget for the previous fiscal year shall be transferred to the State General Fund.

(Act 99-571, p. 1265, §6.)

Section 34-21A-7

Duties and authority of the board.

The duties of this board shall include, but not be limited to the following:

(1) Establish procedures and qualifications for the licensure of individuals engaged in the manufacture, installation, servicing, repair, or maintenance of onsite sewage systems and equipment installed in Alabama and issue such licenses to those individuals who qualify for licensure.

(2) Approve all training required for any license or license renewal under this chapter and approve and administer any examination required for specialized areas and levels of qualification of licensing under this chapter.

(3) Establish the dates, times, and locations for all license examinations, including at least three examination dates each year.

- (4) Accept and process applications from individuals meeting the board-established qualifications for licenses and the renewal of licenses and collect necessary fees according to the schedule of fees established by the board.
- (5) Provide written notification to a candidate of the candidate's examination results and provide information regarding the procedures required to complete the license process, including bond information and local health department fees.
- (6) Accept annual license renewal applications and approve required continuing education and required documentation for license renewal.
- (7) Maintain a complete up-to-date roster of licensees.
- (8) Establish a complaint process and the confidential procedures to investigate alleged violations as set forth in this chapter; establish disciplinary procedures including suspension or revocation of licenses; establish an appeals process; and notify the Alabama Department of Public Health and the appropriate local health departments of any disciplinary action taken by the board. Any member of the board or duly appointed representative designated by the board may administer oaths and take testimony concerning all matters within the jurisdiction of the board.
- (9) Reinstate a revoked or suspended license if the holder of the revoked or suspended license meets specific requirements established by the board and the reinstatement is approved by a majority of the board.
- (10) Oversee all financial, business, and administrative matters necessary to carry out the operation of this board including, but not limited to, accepting fees, paying bills, salaries, expenses, and refunds, and any other action deemed appropriate to conduct business pertinent to its operation.
- (11) Hire and set compensation for an executive director who shall be responsible for the administrative functions of the board.
- (12) Adopt a seal for its use containing the words "Alabama Onsite Wastewater Board."

(Act 99-571, p. 1265, §7; Act 2010-258, p. 453, §1.)

Section 34-21A-8

Annual report of the board.

The board shall annually submit to the Governor a report of its transactions for the preceding fiscal year, and file a copy of the report with the Secretary of State and the State Division of Records and Reports.

(Act 99-571, p. 1265, §8.)

Section 34-21A-9

Rules and regulations.

The board may adopt and issue rules and regulations necessary to carry out this chapter, subject to the Alabama Administrative Procedure Act, Chapter 22 of Title 41.

(Act 99-571, p. 1265, §9.)

Section 34-21A-10

Exemptions.

The licensing requirements of this chapter shall not apply to owners of property for the purpose of installing, cleaning, servicing, or maintaining an onsite sewage system on their own property with a one-family or two-family residence used as their primary residence so long as the owners of the property with an onsite sewage system complete all installation, cleaning, servicing, or maintenance themselves, without help, at their primary residence.

(Act 99-571, p. 1265, §10; Act 2010-258, p. 453, §1.)

Section 34-21A-11

Fees.

The board may establish and charge reasonable fees for the processing of all applications, administration of examinations, issuance of all active and inactive licenses, license renewals, license restoration and replacement, supplying information to applicants, licensees, and the general public, and any and all other required board procedures and related activities. A fee schedule shall be developed by the board and adopted as a rule, and all fees shall be commensurate with the cost of fulfilling the duties of the board as defined in this chapter.

(Act 99-571, p. 1265, §11.)

Section 34-21A-12

Licenses.

(a) The board shall establish the following types of licenses:

- (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.

(b) A person shall first obtain a basic level installer license before qualifying for an advanced level installer license. Additional areas of qualification and license levels may be established by the board based on future evaluations of industry needs and technology advancements.

(c) Licenses issued by the board shall be recognized as evidence of qualification and knowledge of the licensee by the Alabama Department of Public Health and county or local health authorities, and no other additional level of qualification or certification or other requirement shall be required by the Alabama Department of Public Health or any county or local health authorities for those persons engaged in the manufacture, installation, or servicing of onsite sewage systems.

(d) A license shall be issued for the current calendar year and the license shall be valid only for that calendar year. All licenses shall expire on December 31 of each calendar year.

(e) No individual, business, partnership, or corporation shall engage in the manufacture, installation, servicing, cleaning, or maintenance of an onsite sewage system installed in the State of Alabama unless the individual, or the person in responsible charge for the business, partnership, or corporation, has received the required specific license from the board. Persons engaged in the installation or servicing of onsite sewage systems shall obtain a basic level installer license for conventional onsite sewage systems or an advanced level installer license for engineered onsite sewage systems. All manufacturers of onsite sewage septic tanks or receptacles for onsite sewage systems shall qualify and obtain a manufacturer's license. Licenses issued under this chapter shall be granted to individuals meeting the criteria for qualification as established by this board. The licensee shall perform no work outside the level of competency stated on the certificate of license. An individual may be licensed in all areas of eligibility.

(f) No individual, business, partnership, or corporation shall advertise, solicit, bid, obtain permit, conduct business, or perform the function of manufacturing, installing, cleaning, servicing, repairing, or maintaining onsite sewage equipment or systems in Alabama unless the person or persons in responsible charge are licensed as defined in this chapter.

(g) No official charged with the duty of issuing business licenses to any individual, partnership, corporation, or other business entity to operate a business performing the function of manufacturing, installing, cleaning, servicing, repairing, or maintaining onsite sewage equipment or systems in Alabama shall issue such a business license unless there is presented for inspection a license certificate as provided herein issued by the board to

the individual or to some person in responsible charge with the partnership, corporation, or business entity.

(h) No license shall be issued except to an individual. A firm, partnership, association, or corporation shall not be licensed. Partnerships, corporations, or other business entities shall designate the licensed individual in responsible charge under whose name its business is to operate to the local business licensing authority, the board, and the local health officials. If that designated person ceases to be employed by the business entity, notice shall be made immediately to the board and the local health officials. The partnership or corporation shall then have 45 days to re-designate a licensed individual responsible for work performed by the business entity. During this 45-day period, no work shall be initiated by the business entity without the knowledge and approval of local health officials. Any work performed during this time shall be inspected by local health officials and approved by the officials before being considered complete and put into operation. Under special circumstances, a business entity engaged in the manufacture of septic tanks can petition the board for an extension of time beyond the 45-day period to re-designate a licensed individual in a position of responsible charge under whose manufacturer's license the business is to operate. Under no condition may this extension of time extend more than three weeks past the date of the next examination offered by the board for a manufacturer's license.

(i) License certificates suitable for framing, bearing the licensee's name, level and type of license, license number, and the calendar year in which the license is valid shall be issued to all qualified licensees. Every licensee holding a license issued by the board shall display it in a conspicuous manner at his or her principal place of business.

(j) All licensees shall abide by all federal, state, and local laws and ordinances. No license issued by the board may be sold or transferred. Any license misused may be revoked by the board.

(k) Every licensee shall notify the board of the address of his or her place of business, the counties in which he or she does business or performs work, and the name under which the business is carried on. Licensees shall give immediate notice to the board of any change in this information. Service of any process shall be achieved by mailing notice of such information by first class postage, U.S. Postal Service, to the address of record. No further service of process shall be required.

(Act 99-571, p. 1265, §12; Act 2002-521, p. 1351, §1; Act 2010-258, p. 453, §1.)

Section 34-21A-13

Form of application for licenses, examinations, and license renewals.

(a) All applicants for licenses, examinations, or license renewals shall be required to complete specific application forms developed and provided by the board. Information required to be provided on license application forms shall include, but not be limited to, the following:

(1) The applicant's name, date of birth, Social Security number, residence address, telephone number, and county of residence.

(2) The name of the applicant's employer, or the name of the applicant's business, including the business address and telephone number of the employer or applicant's business.

(3) Details of the applicant's business experience, details of the applicant's work experience, and classroom training in the areas of requested licensing.

(4) A signed statement from an official from the applicant's county health department stating that the applicant is in good standing with the local or county health department.

(b) Application forms may also require any information deemed by the board to be significant in evaluating the qualifications of an applicant for license, examination, or license renewal.

(c) All required fees and documentation shall accompany any application form filed with the board.

(d) The board shall approve through its executive director the issuing of a license to each applicant meeting the qualifications as set forth by the board, or deny a license to each applicant not meeting the qualifications as set forth by the board.

(Act 99-571, p. 1265, §13; Act 2010-258, p. 453, §1.)

Section 34-21A-14

Eligibility requirements for license application.

(a) The board shall develop eligibility requirements to be met by applicants seeking licensing by the board. The minimum application requirements shall include, but are not limited to, the applicant's:

(1) Business experience.

(2) Work experience in the requested area of licensure.

(3) Completion of training requirements as established by the board.

(4) Successful completion of the required examination.

(5) Evidence of bond.

(6) Proof that the applicant is 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.

(b) The board shall develop the qualifications and requirements relating to the manufacturer's license, which shall include, but not be limited to:

(1) Completion of classroom instruction.

(2) Successful completion of required examination.

(3) Passing an inspection of the manufacturing plant by a member of the board or some other person designated by the board to perform manufacturing plant inspections.

(4) Proof that the applicant is 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.

(c) Any plant holding a current manufacturing certification issued by the National Precast Concrete Association shall be considered to have sufficiently met the plant inspection requirement.

(Act 99-571, p. 1265, §14; Act 2010-258, p. 453, §1; Act 2011-172, §3.)

Section 34-21A-15

Requirements of examination, areas, and levels of qualification.

(a) No license shall be issued by the board without examination of the applicant for the purpose of ascertaining his or her qualifications for such work, except those licenses issued pursuant to Section 34-21A-17. No examination shall be required for the timely annual renewal of a current license.

(b) The board shall offer and provide examinations which test the knowledge, skill, and qualifications of the applicants.

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

(d) The board shall establish dates and locations for a minimum of three separate examinations each calendar year.

(e) The board shall establish the minimum examination grade necessary for successful completion of an examination.

(f) The board shall develop or approve two separate and specific examinations to test the knowledge and qualifications of those applicants for basic level license and advanced level licenses as follows:

(1) The basic installer level license examination shall test the knowledge and qualifications of applicants seeking a license to install, clean, service, repair, or maintain conventional onsite sewage systems.

(2) The advanced level installer license examination shall test the knowledge and qualifications of applicants seeking a license to install, clean, service, repair, or maintain engineered onsite sewage systems.

(g) A person shall first obtain a basic level installer license before qualifying to take the examination for an advanced level installer license.

(h) The board shall develop a specialized examination to test the qualifications of those applicants seeking a manufacturer's license.

(i) The board shall develop or approve any other additional examinations as may be necessary for additional areas of qualification and license levels as may be established by the board to meet industry requirements and technological advancements in the onsite sewage industry.

(j) Examinations shall be administered by the executive director or persons designated by the board. Any national standardized examination which the board may approve, or any other examination developed under the direction of the board, or any combination thereof, may be administered to applicants to test their knowledge and qualifications. The board shall establish the level of achievement as shall be required for a passing grade for examinations.

(k) Written examination results shall be provided within 14 days of taking the examination. Successful candidates shall also be informed of the procedures required to complete the license process. Any person who fails an examination may, upon reapplication and payment of required fees, take the examination when offered by the board.

(l) The executive director shall provide to the Alabama Department of Public Health and the appropriate local health authorities a list of all candidates who successfully qualify for a license within 14 days following the date the license is issued by the board.

(Act 99-571, p. 1265, §15; Act 2007-200, p. 240, §3; Act 2010-258, p. 453, §1.)

Section 34-21A-16

Bond requirement for licensees.

In order to assure financial stability and professional competence and performance of licensees, all licensees, without exception, are required to be bonded for any work performed under the license. Minimum amounts for required bonds shall be established by the board and evidence of bond shall be provided to the board before any license will be issued. In no event may the minimum required bond amounts set by the board be less

than fifteen thousand dollars (\$15,000) for a basic level license, a pumper license, a portable toilet license, or a manufacturer's license, and thirty thousand dollars (\$30,000) for an advanced level license. Each active licensee shall maintain a current bond for each license he or she holds. The executive director shall immediately suspend any active license without a current bond on file. The executive director shall reinstate the license once a reinstatement fee is paid by the licensee and the bond is reactivated or replaced. In the event the licensee contends his or her license has been unjustly suspended, the licensee may request a hearing and the executive director shall hold a hearing within 10 business days of the request.

(Act 99-571, p. 1265, §16; Act 2010-258, p. 453, §1.)

Section 34-21A-17

Applicability of licensing provisions.

After December 31, 1999, individuals not currently licensed will be required to follow the requirements for license application, including completing required training and successfully passing any required examination.

(Act 99-571, p. 1265, §17; Act 2010-258, p. 453, §1.)

Section 34-21A-18

Annual renewal of license.

(a) A license is only valid during the calendar year indicated on the license. At the end of that calendar year, the license will expire unless it is renewed by the licensee. All licensees shall make application for license renewal at least 30 days prior to the expiration of a current license.

(b) Specific license renewal application forms and license renewal requirements shall be developed by the board. License renewal requirements shall include, but not be limited to, continuing education and training requirements for each level and type of license and evidence of adequate bond. The license renewal application form shall be accompanied by all required documentation and renewal fees. The board shall verify that the renewal applicant is a current licensee who is eligible for renewal before issuing a new license.

(c) Failure to meet renewal requirements shall result in expiration and revocation of a license. Upon expiration of a license, the licensee's name will be removed from the board's official list and the Alabama Department of Public Health and the appropriate local health authorities will be notified of the license expiration. A license which has expired for failure to renew may only be restored within one year from the date of expiration after application and payment of the license restoration fee established by the board. Any license which has not been restored within one year following its expiration may not be renewed, restored, or reissued, and the holder may apply for and obtain a new

license only upon compliance with all qualifications and requirements for the issuance of a new license.

(Act 99-571, p. 1265, §18.)

Section 34-21A-19

Inactive license.

The board shall formulate rules and criteria under which an applicant may request an inactive license and determine circumstances when a license may become inactive by state or local health department request. The board shall develop a standard official definition of an inactive license in the formulation of the board's rules and regulations.

(Act 99-571, p. 1265, §19.)

Section 34-21A-20

Replacement licenses.

The board shall issue a replacement to a licensee who shows upon application that the current license has been lost, destroyed, or stolen or if the licensee's name has been changed by marriage or court order. An application for a replacement license shall be accompanied by all required fees.

(Act 99-571, p. 1265, §20.)

Section 34-21A-21

Revocation and suspension of license.

(a) The board shall establish criteria for circumstances warranting the suspension or revocation of a license and establish the procedures for suspension or revocation of licenses. These circumstances shall include, but not be limited to, the following:

- (1) Obtaining a license under false pretense.
- (2) Obtaining a license by having another person take the examination.
- (3) Allowing another person to use the license in violation of the regulations of the board.
- (4) Selling or conveying the license to another person.
- (5) Failure to timely renew a license.
- (6) Failure to follow the rules and regulations of the State of Alabama Department of Public Health or the appropriate local health department or authorities.

(7) Committing a dishonest or illegal act in the performance of work covered under the license.

(b) The board shall take appropriate action to enforce the rules adopted with regard to license suspension or revocation.

(c) After suspension or revocation of a license of any licensee, the board shall publish this information to the public.

(Act 99-571, p. 1265, §21; Act 2010-258, p. 453, §1.)

Section 34-21A-22

Complaint and regulation procedures.

(a) The board shall establish procedures to process, review, and investigate reports and complaints of fraud, incompetence, misconduct, and dishonest or illegal acts of licensees in the performance of work covered under licenses of this board; and complaints supported by evidence shall be reviewed at a disciplinary hearing, which hearing shall be conducted in compliance with the provisions of the Alabama Administrative Procedure Act and held before the board. The board shall establish the procedures for such disciplinary hearings. A member of the board who has a conflict of interest concerning the parties involved or issues involved in the disciplinary hearing shall recuse himself or herself from the hearing and the disciplinary proceeding.

(b) The board, upon its findings, may suspend or revoke the individual's license.

(Act 99-571, p. 1265, §22; Act 2010-258, p. 453, §1.)

Section 34-21A-23

Reinstatement of license.

This board shall determine the procedure to be followed for reinstatement of a suspended or revoked license. The procedures shall include, but not be limited to, application to the board for reinstatement, hearing before the board, correction of the problem causing the board's action in suspending or revoking the license, recommendations for reinstatement from the appropriate health department regulators, payment of levied fines or fees, completion of any education classes determined to be needed by the individual to aid in assuring no recurrence of the violation, and a published apology.

(Act 99-571, p. 1265, §23.)

Section 34-21A-24

Appeal procedure.

After revocation or suspension of license, the licensee may, within 10 days of notice of the board's order and finding, file with the board a written notice of his or her intent to appeal the order of the board. Appeals from orders of the board shall be filed with the Circuit Court of Montgomery County, Alabama, for a determination by the court as to whether the decision of the board is supported by a preponderance of the evidence. If the court finds that the decision of the board is supported by evidence, it shall affirm the board's action.

(Act 99-571, p. 1265, §24; Act 2010-258, p. 453, §1.)

Section 34-21A-25

Penalties and sanctions.

(a) Any person who undertakes or attempts to undertake the business of manufacturing, installing, servicing, cleaning, repairing, or maintaining any onsite sewage system or equipment without first having obtained and having possession of a current, valid license from the board or who knowingly presents or files false information with the board for the purpose of obtaining a license or otherwise fraudulently obtains a license, or who knowingly violates any provision of this chapter regulating the onsite sewage industry shall be guilty of a Class A misdemeanor, as defined by the state criminal code.

(b) Whenever it appears to the board that an individual has violated or is about to violate this chapter, it may in its own name petition the circuit court of the county where the violation is occurring or is about to occur to issue a temporary restraining order or other appropriate injunctive relief enjoining the violation.

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

(d) The board may levy and collect an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of this chapter or a rule, as amended, of the board or Alabama Department of Public Health rules pertaining to the manufacture, installation, servicing, cleaning, or maintenance of an onsite sewage system or portable toilets.

(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 immediately 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. A person, firm, or corporation that does not comply with a cease and desist order shall be deemed in violation of this chapter and shall be subject to all disciplinary powers, penalties, fines, and remedies available to the board.

(Act 99-571, p. 1265, §25; Act 2010-258, p. 453, §1.)

Section 34-21A-26

Sunset provisions.

The operations of the board shall terminate October 1, 2003, and every fourth year thereafter unless continued in accordance with the Alabama Sunset Law.

(Act 99-571, p. 1265, §26.)