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Honorable Keith Warren  
Executive Director  
The Alabama Board of Electrical Contractors  
2777 Zelda Road  
Montgomery, Alabama 36106

Electrical Contractors Board –  
Licenses and Permits – Employment  
Contracts – Electrical Contractors –  
Electricians

The word “employee,” as used in  
section 34-36-13 of the Code of  
Alabama, does not include  
independent contractors.

Dear Mr. Warren:

This opinion of the Attorney General is issued in response to your  
request on behalf of the Alabama Board of Electrical Contractors  
(“ALBEC”).

QUESTION

Does the word “employee,” as used in  
Section 34-36-13 include independent  
contractors?

FACTS AND ANALYSIS

The Legislature codified the Alabama Electrical Contractors Act  
“for the purpose of safeguarding homeowners and other property owners  
and tenants against faulty, inadequate, inefficient, or unsafe electrical

installations and to protect the life, health, and property of homeowners and other property owners and tenants in the State of Alabama.” ALA. CODE § 34-36-2. (Westlaw 2021). Section 34-36-2 notes that the accompanying statutes are to be liberally construed to accomplish this stated purpose. *Id.* In addition, the ALBEC was created, in part, to adopt rules and regulations to carry out the Legislature’s intent. ALA. CODE § 34-36-4(e) (Westlaw 2021).

Section 34-36-13 of the Code of Alabama prohibits a person from engaging in the electrical contracting business or performing work as a master or journeyman electrician without a license from the ALBEC or from the applicable county or municipality. ALA. CODE § 34-36-13(a) (Westlaw 2021). There are, however, some exceptions. For example, section 34-36-13 does not apply to “any technician employed by a municipal franchised CATV system[,]” “[t]o any master or journeyman electrician employed by a state licensee of the board or a licensee of a county or municipality...[,]” or “[t]o the owner of any premises or any employee of any such owner when performing electrical work...on such premises[,]” etc. ALA. CODE § 34-36-13 (a)(3)-(7) (Westlaw 2021). In all, section 34-36-13 of the Code uses the word “employee” or some variation thereof five times. The word “employee” is not defined by the Legislature and you question whether an employee referred to in section 34-36-13 includes an independent contractor.

Recently, the ALBEC revised its own regulations to define an “employee.” At a meeting held on January 25, 2021, the ALBEC voted to adopt the following definition of an employee:

**EMPLOYEE:** An individual employed to perform services in exchange for valuable consideration by an individual, organization or corporate employer, so long as that employer’s business is at all times affiliated with a properly licensed electrical contractor or the employer is the owner of the premises, as described in Ala. Code § 34-36-13(1)(5). An employee for the purposes of the Alabama Electrical Contractor’s laws and rules must not be an independent contractor. The valuable consideration paid to the employee must be evidenced by a current W2 filed with the Internal Revenue Service and the employer agrees to provide the Board with such W2 evidence upon request.