

1979 WL 42966 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1979

\*1 Mr. John T. Watkins  
Director  
S. C. Residential Home Builders Commission  
2221 Devine Street, Suite 312  
Columbia, South Carolina 29205

Dear John:

In a recent letter to this Office, you inquired as to whether an individual paid by the hour by a homeowner to construct an addition to the present residential home of such homeowner is required to be licensed. You indicated that the cost of the job exceeded thirty thousand dollars.

As you are aware, pursuant to [Section 40-59-70 of the 1976 Code](#) of Laws, those individuals coming within the definition of a 'residential home builder' as defined by [Section 40-59-10 of the 1976 Code](#) of Laws are required to be licensed by the South Carolina Residential Home Builders Commission (hereafter 'the Commission'). [Section 40-59-10](#) states in part: (f)or the purpose of this chapter a 'residential home builder' shall be one who constructs a residential building 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, of any building or structure which is not over three floors in height and which does not have more than sixteen units in the apartment complex, or the repair, improvement or reimprovement thereof, to be used by another as a residence when the cost of the undertaking exceeds ten thousand dollars.

However, it is additionally provided by such section that 'nothing herein shall prevent any person, or his agents, from performing these acts on his own residence or on his other real estate holdings.' Such provision appears therefore to be an expression of legislative intent that any construction done by a homeowner personally or by a builder at the homeowner's direction does not necessitate that such individuals be licensed. The Rules and Regulations of the Commission indicate a similar finding. (See R 106-3 of the Rules and Regulations of the Commission.)

I have been informed that when the Act now codified as [Sections 40-59-10, et seq.](#) of the 1976 Code of Laws was passed, it was the specific intention of the Legislature that as to any construction or remodeling work done on an individual's own residence, such work could be performed by an unlicensed builder. Such was the reason for the exclusion previously referenced. Furthermore, obviously the homeowner in contracting with an individual to perform any remodeling work could determine if such individual is a licensed home builder before awarding him the job.

Therefore, in light of the provision that 'nothing . . . shall prevent any person, or his agents, from performing these acts on his own residence', it appears that as to the referenced remodeling job, the individual who performs such work would not have to be licensed.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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