

1983 WL 182089 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 26, 1983

*1 John T. Watkins

Director

South Carolina Residential Home Builders Commission

2221 Devine Street

Suite 312

Columbia, South Carolina 29205

Dear Mr. Watkins:

You have inquired as to the applicability of [Section 40-59-130, S.C. CODE ANN.](#) to a builder licensed as a general contractor with clarification as a superintendent who has contracted to build a home. The cited Section provides in part:

No residential home builder who does not have the license required herein may bring any action either at law or in equity to enforce the provision of any contract for residential home building which he entered into in violation of this chapter.

In response to your inquiry, I first call your attention to Act No. 93, 1983 Acts and Joint Resolutions, which makes the Residential Home Builders Commission the exclusive licensing agency for builders engaged only in home building. Thus, your inquiry must be interpreted as relating to persons licensed as general contractors who are engaged in other construction work as well as home building.

Under the provisions of [Section 40-59-140, S.C. CODE ANN.](#), persons properly licensed as general contractors for the purpose of undertaking the construction or superintending of construction of any building are exempt from the above cited part of [Section 40-59-130, S.C. CODE ANN.](#) Thus, a licensed general contractor who engages in residential home building as well as other general construction work would not be barred from bringing an action to enforce a residential home building contract. However, a licensed general contractor who engages only in residential home construction is in violation of [Section 40-59-140](#) unless he is properly licensed by the Residential Home Builders Commission. Such a contractor, if unlicensed by your Commission, could not bring an action to enforce a residential home building contract.

Sincerely,

W. Joseph Isaacs

Assistant Deputy Attorney General

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