

1979 WL 42975 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 2, 1979

\*1 Mr. James D. Riley, Sr.  
Inspector  
Colleton County Building Inspector  
P.O. Box 147  
Walterboro, South Carolina 29488

Dear Mr. Riley:

In a recent letter to this Office, you asked whether in a situation where an individual is planning to 'build a home for himself' but is planning to subcontract out a majority of the work involved, are those individual subcontractors required to be licensed by the South Carolina Residential Home Builders Commission (hereafter 'the Commission'). You referenced the fact that no one individual is to be paid in excess of ten thousand dollars (\$10,000.00).

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 Commission. [Section 40-59-10](#) states in part:

For 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 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 immediate 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.)

As to your reference of the fact that no one individual is to be paid in excess of ten thousand dollars (\$10,000.00), the statute actually is directed toward the construction or remodeling of a residence, the total cost of which exceeds ten thousand dollars (\$10,000.00) It does not reference the separate amounts paid any one individual.

Therefore, as to your situation as outlined above, in light of the above-referenced exclusion that 'nothing herein shall prevent any person, or his agents, from performing these acts on his own residence', it would appear that where an individual is planning to 'build a home for himself' with a majority of the work being done by subcontractors, none of these individuals would be required to be licensed by the Commission. Presumably, the Legislature when passing the Act establishing the Commission and the licensing requirement felt that an individual who acts as his own contractor could take these precautions necessary in assuring that his home was properly constructed.

Sincerely yours,

\*2 Charles H. Richardson

Assistant Attorney General

1979 WL 42975 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.