

1978 S.C. Op. Atty. Gen. 103 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-72, 1978 WL 22553

Office of the Attorney General

State of South Carolina

Opinion No. 78-72

April 12, 1978

***1 SUBJECT: Contractors**

(1) A company engaged in unloading, moving, and securing certain machinery to the foundation of a building previously constructed to house such machinery is not required to have a south Carolina general contractor's license to do such work.

(2) It would appear, however, that the work involved in hooking up certain machine supply lines, such as water, air, and vacuum, necessitates that it be performed by a licensed contractor assuming that the financial requirements of the statutes regulating contractors in this State are met.

TO: Honorable Alex Harvin, III

Representative

Clarendon County

QUESTIONS:

(1) Is a company engaged in unloading, moving, and securing certain machinery to the foundation of a building previously constructed to house such machinery required to have a South Carolina general contractor's license to do such work?

(2) Is it necessary that the work involved in hooking up certain machine supply lines be performed by a licensed contractor?

STATUTES AND CASES:

[Section 40-11-10 Code of Laws of South Carolina \(1976\)](#); Letter from Mr. J. C. Coleman to Mr. L. P. Hamilton dated December 5, 1973;

[Muirhead v. Pilot Properties, Inc., 258 So.2d 232 \(1972\)](#); [Olney v. Hutt, 105 N.W.2d 515 \(1960\)](#).

DISCUSSION:

You indicated in your letter that the type of work questioned did not involve any construction, modification, improvement, or repairs to a building or structure. It was stated, however, that the work did include:

. . . unloading . . . machinery from rail cars or trucks by utilizing cranes, lift trucks, skids, rollers, jacks, hoists, etc.; then moving the machinery into place within a building; and subsequently bolting or securing the machinery to its foundation and hooking up the machine supply lines (such as air, water, and vacuum, but not electrical) to main lines already established within the building.

Therefore, a determination must be made as to whether this type of activity constitutes contracting within the definition of [Section 40-11-10, Code of laws of South Carolina](#), 1976.

By [Section 40-11-10, supra](#), a general contractor is defined as:

one who for a fixed price, commission, fee or wage undertakes or offers to undertake the construction or superintending of construction of any building, highway, sewer, grading, improvement, reimprovement, structure, or part thereof, when the cost of the undertaking is thirty thousand dollars or more.

Thus, as to the work involved in unloading, moving, and securing the machinery, the pertinent parts of this section would be:

... one who ... undertakes ... the construction ... of any ... improvement ...

An earlier opinion of this Office, a letter from Mr. J. C. Coleman to Mr. L. P. Hamilton dated December 5, 1973, indicated as to a situation prompting the request that the above definition was two-pronged in its applicability, viz:

- *2 1. the item under consideration must be an 'improvement' to the structure;
- 2. the item under consideration must be 'constructed'.

In this earlier opinion, the question involved whether the supplier of manufactured seating equipment which cost thirty thousand dollars or more must be licensed as a general contractor in this State to install such equipment. In that instance, the work involved securing the seating equipment to a building and this Office was of the opinion that the attachment of this manufactured seating equipment to the building was not construction within the above referenced definition of a general contractor.

Arguably, the machinery involved in the particular situation prompting this Opinion may come within the definition of an 'improvement'. However, it does not appear that the work done in unloading the machinery, moving it into place, and bolting or securing it to the foundation of a building would be 'construction'.

The earlier-referenced Opinion indicated that 'construct' has been defined as 'to make or form by fitting the parts together'. In [Muirhead v. Pilot Properties](#), 258 So.2d 232 (1972), the Mississippi Supreme Court defined 'construction' as to build or erect something which theretofore did not exist'. Similarly, in [Olney v. Hutt](#), 105 N.W.2d 515 (1960), the Iowa Supreme Court defined 'construct' as 'to put together the constituent parts in their proper place and order; to build; form; make'.

Based on the description of the work involved in unloading, moving, and securing machinery to a particular foundation, it does not appear that this work would present a situation requiring a licensed general contractor inasmuch as no actual construction is involved. However, you indicated that it was necessary that the machine supply lines, such as air, water, and vacuum, be hooked up to main lines established within the building. It would appear that this would involve activity within the requirements of either the general or mechanical contracting laws of this State. Arguable such work could be construed to be construction within the previous definitions referenced so as to bring it within the definition of general contracting. Also the nature of certain aspects of the work, which admittedly is somewhat vague to someone not totally informed in such processes, may be such as to bring it within the scope of mechanical contracting. By definition, a mechanical contractor is

one who for a fixed price commission, fee or wage undertakes or offers to undertake any plumbing, heating, air conditioning or electrical work when the cost of the undertaking is ten thousand dollars or more.

Of course, the cost requirements would have to be met in order for it to be necessary that a licensed general or mechanical contractor complete the work

CONCLUSION:

(1) A company engaged in unloading, moving, and securing certain machinery to the foundation of a building previously constructed to house such machinery is not required to have a South Carolina general contractor's license to do such work.

*3 (2) It would appear, however, that the work involved in hooking up certain machinery supply lines, such as water, air, and vacuum, necessitates that it be performed by a licensed contractor assuming that the financial requirements of the statutes regulating contractors in this State are met.

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