

OFFICE OF THE ATTORNEY GENERAL



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Honorable Cherie E. Colquett
Executive Secretary
The State Licensing Board
for General Contractors
400 S. Union Street, Suite 235
Montgomery, AL 36130

Licenses and Permits -
General Contractors -
Contractors Licensing Board -
State Departments and
Agencies - Rules and
Regulations - Administrative
Procedure

An owner is exempted from licensure as a general contractor if such owner is himself constructing a building or other improvement on his own property regardless of whether or not the building is to be rented or sold within one year of construction and regardless of the cost of the undertaking.

Dear Ms. Colquett:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Is an owner exempted from licensure as a general contractor if such owner is, himself, constructing a building or other

improvement on his own property regardless of whether the building is to be rented or sold within one year of construction and the cost of the undertaking exceeds \$20,000.00?

FACTS, LAW AND ANALYSIS

Section 34-8-7 of the Code of Alabama 1975, provides as follows:

"The following shall be exempted from the provisions of this chapter: The practice of general contracting, as defined in section 34-8-1 by . . . a person, firm, or corporation constructing a building or other improvements on his or its own property."

A general contractor is defined in Section 34-8-1, Code of Alabama 1975, as:

". . . one who for a fixed price, commission, fee, or wage, undertakes to construct or superintend the constructing of any improvement or structure where the cost of the undertaking is \$20,000.00 or more (\$5,000.00 for swimming pools)."

Obviously, under the definition of a general contractor, one who undertakes the construction of an improvement or structure where the cost of the undertaking is under \$20,000.00 does not come within the purview of the statute. Thus, the exemption found in § 34-8-7 does not have a field of operation unless it applies to construction or improvements in which the cost exceeds \$20,000.00. Accordingly, a rule adopted under the rule-making authority of the State Licensing Board for General Contractors, and pursuant to the Administrative Procedures Act, which attempts to limit the exemption provided in § 34-8-7 is clearly invalid.

CONCLUSION

Your question is answered in the affirmative. An owner is exempted from licensure as a general contractor if such owner is himself constructing a building or other improvement on his own property regardless of whether the building is to

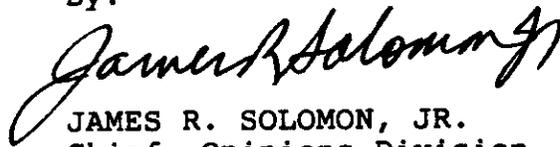
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be rented or sold within one year of construction and
regardless of the cost of the undertaking.

I hope this sufficiently answers your question. If our
office can be of further assistance, please do not hesitate
to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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