

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/3/87

HOUSE BILL 1789

By: Representatives McCuiston, Gilbert and D. Roberts

"AN ACT TO PROVIDE FOR THE REGISTRATION OF HOMEBUILDERS IN THE STATE OF ARKANSAS; TO PROVIDE FOR FEES IN CONNECTION WITH SUCH REGISTRATION; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Short Title. This Act, as it may be amended from time to time shall be known and may be cited as the "Arkansas Homebuilders Registration Act."

SECTION 2. Definitions. As used in this Act:

(a) The phrase "homebuilder" means any person who, in the pursuit of an independent business, undertakes to, or offers to undertake, or submits a bid to, or contracts or undertakes to construct, or assumes charge, in a supervisory capacity or otherwise, or manages the construction or erection of a private residence on behalf of another person or, who, to do similar work upon his own property with the intent to resell such private residence, employs members of one or more building trades upon a single job or project or under a single building permit.

(b) The word "residence" means any dwelling, from one to four units in design, intended principally for residential purposes.

(c) The word "person" means any natural person, limited or general partnership, association, corporation or other organization or entity, or any combination thereof.

SECTION 3. Registration Required at Local Option.

Any county, incorporated city, town or village in Arkansas may, at its option, adopt an ordinance or ordinances requiring that person, upon

making application to the building inspector or such other authority of any such county, incorporated city, town or village in Arkansas charged with the duty of issuing building or other permits for the construction of any residence, shall, before being entitled to the issuance of such permits, furnish satisfactory proof to such inspector or authority that he is duly registered under the terms of this Act, and it shall be unlawful for such building inspector or such other authority to issue or allow the issuance of such building permit unless and until the applicant has furnished evidence that he is either exempt from the provisions of this Act or is duly registered under this Act to carry out or superintend the work to which such permit relates. A partnership or joint venture shall be deemed registered in accordance with this Act if any one or more of the general partners or venturers whose names appear in the name under which the partnership or venture does business shall be registered.

SECTION 4. Application for Registration. An applicant for registration as a homebuilder shall submit an application under oath upon a form to be prescribed by the Secretary of State and which shall include, but shall not be limited to, the following information pertaining to the applicant:

1. Social security number for natural persons, or employer identification number for other persons.
2. The name and address under which the applicant conducts business, if an individual proprietorship; the name and address of each partner or venturer, if the applicant is a partnership or joint venture; or the name and address of the corporate officers and statutory agent for service, if the applicant is a corporation.
3. A certificate issued by an insurance company licensed to do business in the State of Arkansas that the applicant has procured and has in effect public liability and property damage insurance covering the applicant's homebuilding operations in the sum of not less than \$20,000 for injury or damage to property and \$50,000 for injury or damage, including death to any one person, and \$100,000 for injury or damage, including death to more than one person, and, if applicable, workmen's compensation insurance coverage.

The information contained in such application shall be a matter of public record and open to public inspection.

SECTION 5. Certificate of Registration - Issuance, Duration, Renewal. A certificate of registration shall be initially issued for a period commencing on the date of issue and expiring on November 30 of the year following the year in which issued. Certificates of registration shall be renewed for a term of one year beginning on December 1 of the year in which renewed and expiring on November 30 of the following year. Certificates of registration shall be renewed on or before sixty (60) days prior to the expiration date. The Secretary of State shall issue certificates of registration to applicants upon the applicants' compliance with the registration requirements of this Act, and such certificates and any renewals thereof, shall be filed by the Secretary of State in accordance with the Arkansas Administrative Procedure Act, the same being Act No. 434 of 1967, as amended.

SECTION 6. Registration and Renewal Fees. If an applicant homebuilder constructs a residence in a locality that requires registration of such homebuilders under the provisions of Section 3 of this Act, the applicant homebuilder shall pay to the Secretary of State a registration or renewal fee of \$25.00 per calendar year; provided, however, that such registration or renewal fee may be subsequently adjusted by the Secretary of State, from time to time, as may be necessary to cover the costs and expenses of performing the duties of the Secretary of State as required by this Act, it being intended that such registration and renewal fees shall not produce a profit to the State of Arkansas. Prior to any such adjustment to the registration or renewal fee, the Secretary of State shall certify to the Legislative Council of the Arkansas General Assembly, or any successor body thereto, that such adjustment is necessary in order to comply with the provisions of this section and the amount of the adjusted registration or renewal fee, as the case may be. All moneys received by the Secretary of State pursuant to this Act, other than moneys received by virtue of an appropriation, are hereby specifically declared to be cash funds, restricted in their use and only to be used to administer this Act, and shall not be required to be deposited in the State Treasury.

SECTION 7. Business Practices. No person shall advertise as a registered homebuilder unless such person shall have complied with the provisions of this Act. No person who is registered under one name as provided in

this Act shall engage in business as a homebuilder under any other name unless such other name is also registered hereunder. All advertisements and all contracts, correspondence and other documents prepared by a homebuilder which indicate the homebuilders name or address shall show the homebuilders name or address as registered hereunder.

SECTION 8. Authority Reserved to Counties and Incorporated Municipalities. In addition to all other statutory powers of counties and incorporated municipalities, there is hereby specifically reserved to counties and incorporated municipalities within the State the power and authority to adopt building codes or other ordinances requiring homebuilders within their respective jurisdictions to apply for applications to do business as homebuilders and such ordinances shall preempt the provisions hereof, if, and only if, such ordinances require the same information as to the identity, name and address of the applicants and insurance coverages equal to or greater than the coverages required by this Act.

SECTION 9. Suspension of Registration. In the event that any insurance coverages provided for hereunder shall cease to be effective, the registration of the affected homebuilder shall be suspended until such insurance shall be reinstated. The insurance company ceasing to provide coverage for the homebuilder shall notify the Secretary of State of such cancellation of insurance coverage. After receiving notification of the cessation of insurance coverage, the Secretary of State shall notify any affected locality of the cancellation of the homebuilder's insurance coverage and of the suspension of the homebuilder's registration.

SECTION 10. Separability Clause. If any section or provision of this Act shall be held unconstitutional, such holding shall not affect any remaining sections or provisions.

SECTION 11. Emergency Clause. It has been found and is declared by the General Assembly that there is an urgent need to establish a fair and workable system of regulating the residential homebuilding industry in the State of Arkansas through the registration of homebuilders and that the immediate passage of this Act is necessary to provide for such registration. Therefore,

an emergency is declared to exist, and this Act, being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval.

/s/ Lloyd McCuiston

