

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 738 of 2001
HOUSE BILL 1934

5 By: Representative Roebuck
6 By: Senator T. Smith
7

For An Act To Be Entitled

8
9
10 AN ACT TO REPEAL THE ARKANSAS HOMEBUILDERS
11 REGISTRATION ACT; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO REPEAL THE ARKANSAS HOMEBUILDERS
15 REGISTRATION ACT.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 17-34-101 through 17-34-109 is repealed.

21 ~~17-34-101. Title.~~

22 ~~This chapter, as it may be amended from time to time, shall be known~~
23 ~~and may be cited as the "Arkansas Homebuilders Registration Act".~~
24

25 ~~17-34-102. Definitions.~~

26 ~~As used in this chapter, unless the context otherwise requires:~~

27 ~~(1) "Homebuilder" means any person who, in the pursuit of an~~
28 ~~independent business, undertakes to, or offers to undertake, or submits a bid~~
29 ~~to, or contracts or undertakes to construct, or assumes charge, in a~~
30 ~~supervisory capacity or otherwise, or manages the construction or erection of~~
31 ~~a private residence on behalf of another person, or who, to do similar work~~
32 ~~upon his own property with the intent to resell the private residence,~~
33 ~~employs members of one (1) or more building trades upon a single job or~~
34 ~~project or under a single building permit;~~

35 ~~(2) "Residence" means any dwelling, from one (1) to four (4) units in~~
36 ~~design, intended principally for residential purposes; and~~

1 ~~(3) "Person" means any natural person, limited or general partnership,~~
2 ~~association, corporation, or other organization or entity, or any combination~~
3 ~~thereof.—~~

4
5 ~~17-34-103. Preemptive local ordinances reserved.—~~

6 ~~In addition to all other statutory powers of counties and incorporated~~
7 ~~municipalities, there is specifically reserved to counties and incorporated~~
8 ~~municipalities within the state the power and authority to adopt building~~
9 ~~codes or other ordinances requiring homebuilders within their respective~~
10 ~~jurisdictions to apply for applications to do business as homebuilders. These~~
11 ~~ordinances shall preempt the provisions of this chapter if, and only if,~~
12 ~~these ordinances require the same information as to the identity, name, and~~
13 ~~address of the applicants and insurance coverages equal to or greater than~~
14 ~~the coverages required by this chapter.—~~

15
16 ~~17-34-104. Requiring proof of inspection.—~~

17 ~~(a) Any county or incorporated city or town in Arkansas, at its~~
18 ~~option, may adopt an ordinance or ordinances requiring a person, upon making~~
19 ~~application to the building inspector or another authority of any county or~~
20 ~~incorporated city or town in Arkansas charged with the duty of issuing~~
21 ~~building or other permits for the construction of any residence, before being~~
22 ~~entitled to the issuance of those permits, to furnish satisfactory proof to~~
23 ~~the inspector or authority that the person is registered under the terms of~~
24 ~~this chapter.—~~

25 ~~(b)(1) It shall be unlawful for the building inspector or other~~
26 ~~authority to issue or allow the issuance of a building permit unless and~~
27 ~~until the applicant has furnished evidence that he is either exempt from the~~
28 ~~provisions of this chapter or is registered under this chapter to carry out~~
29 ~~or superintend the work to which the permit relates.—~~

30 ~~(2) A partnership or joint venture shall be deemed registered in~~
31 ~~accordance with this chapter if any one (1) or more of the general partners~~
32 ~~or venturers whose names appear in the name under which the partnership or~~
33 ~~venture does business shall be registered.—~~

34 ~~(c)(1) Any county or incorporated city or town in Arkansas adopting an~~
35 ~~ordinance or ordinances pursuant to this chapter shall notify the Secretary~~
36 ~~of State of the action.—~~

1 ~~(2) Within thirty (30) days after the adoption of the ordinance~~
2 ~~or ordinances, the county or incorporated city or town shall furnish to the~~
3 ~~Secretary of State the following information:—~~

4 ~~(A) The full name and address of the county or~~
5 ~~incorporated city or town adopting such ordinance or ordinances; and—~~

6 ~~(B) The name and telephone number of any person designated~~
7 ~~by the county or incorporated city or town to be a contact person for~~
8 ~~information regarding this chapter.—~~

9
10 ~~17-34-105. Application for registration—Public record.—~~

11 ~~(a) An applicant for registration as a homebuilder shall submit an~~
12 ~~application under oath upon a form to be prescribed by the Secretary of~~
13 ~~State. The application shall include, but shall not be limited to, the~~
14 ~~following information pertaining to the applicant:—~~

15 ~~(1) Social security number for natural persons or employer~~
16 ~~identification number for other persons;—~~

17 ~~(2) The name and address under which the applicant conducts~~
18 ~~business if the applicant is an individual proprietorship, the name and~~
19 ~~address of each partner or venturer if the applicant is a partnership or~~
20 ~~joint venture, or the name and address of the corporate officers and~~
21 ~~statutory agent for service if the applicant is a corporation; and—~~

22 ~~(3) A certificate issued by an insurance company licensed to do~~
23 ~~business in the State of Arkansas that the applicant has procured and has in~~
24 ~~effect public liability and property damage insurance covering the~~
25 ~~applicant's homebuilding operations in the sum of not less than twenty~~
26 ~~thousand dollars (\$20,000) for injury or damage to property and fifty~~
27 ~~thousand dollars (\$50,000) for injury or damage, including death to any one~~
28 ~~(1) person, and one hundred thousand dollars (\$100,000) for injury or damage,~~
29 ~~including death to more than one (1) person, and, if applicable, workers'~~
30 ~~compensation insurance coverage.—~~

31 ~~(b) The information contained in the application shall be a matter of~~
32 ~~public record and open to public inspection.—~~

33
34 ~~17-34-106. Certificate of registration—Renewal.—~~

35 ~~(a) A certificate of registration shall be initially issued for a~~
36 ~~period commencing on the date of issue and expiring on November 30 of the~~

1 year following the year in which issued. Certificates of registration shall
2 be renewed for a term of one (1) year beginning on December 1 of the year in
3 which renewed and expiring on November 30 of the following year.—

4 (b) Certificates of registration shall be renewed on or before sixty
5 (60) days prior to the expiration date.—

6 (c) The Secretary of State shall issue certificates of registration to
7 applicants upon the applicants' compliance with the registration requirements
8 of this chapter. The certificates and any renewals thereof shall be filed by
9 the Secretary of State in accordance with the Arkansas Administrative
10 Procedure Act, § 25-15-201 et seq.—

11 (d) Upon request, the Secretary of State shall provide annually a
12 roster of all persons currently registered under the terms of this chapter to
13 any county or incorporated city or town that has adopted an ordinance or
14 ordinances pursuant to § 17-34-104.—

15
16 ~~17-34-107. Registration or renewal fee—Funds.—~~

17 (a)(1) If an applicant homebuilder constructs a residence in a
18 locality that requires registration of such homebuilders under the provisions
19 of § 17-34-104, the applicant homebuilder shall pay to the Secretary of State
20 a registration or renewal fee of twenty five dollars (\$25.00) per calendar
21 year.—

22 (2)(A) The registration or renewal fee may be subsequently
23 adjusted by the Secretary of State, from time to time, as may be necessary to
24 cover the costs and expenses of performing the duties of the Secretary of
25 State as required by this chapter. It is intended that the registration and
26 renewal fees shall not produce a profit to the State of Arkansas.—

27 (B) Prior to any adjustment to the registration or renewal
28 fee, the Secretary of State shall certify to the Legislative Council or any
29 successor body thereto that the adjustment is necessary in order to comply
30 with the provisions of this section and the amount of the adjusted
31 registration or renewal fee, as the case may be.—

32 (b) All moneys received by the Secretary of State pursuant to this
33 chapter, other than moneys received by virtue of an appropriation, are
34 specifically declared to be cash funds, restricted in their use and only to
35 be used to administer this chapter. These funds shall not be required to be
36 deposited in the State Treasury.—

1
2 ~~17-34-108. Engaging in business as registered.~~

3 ~~No person shall advertise as a registered homebuilder unless that~~
4 ~~person shall have complied with the provisions of this chapter. No person who~~
5 ~~is registered under one (1) name as provided in this chapter shall engage in~~
6 ~~business as a homebuilder under any other name unless that other name is also~~
7 ~~registered under this chapter. All advertisements and all contracts,~~
8 ~~correspondence, and other documents prepared by a homebuilder which indicate~~
9 ~~the homebuilder's name or address shall show the homebuilder's name or~~
10 ~~address as registered under this chapter.~~

11
12 ~~17-34-109. Suspension of registration if no insurance.~~

13 ~~(a) In the event that any insurance coverages provided for under this~~
14 ~~chapter shall cease to be effective, the registration of the affected~~
15 ~~homebuilder shall be suspended until the insurance shall be reinstated.~~

16 ~~(b) The insurance company ceasing to provide coverage for the~~
17 ~~homebuilder shall notify the Secretary of State of the cancellation of~~
18 ~~insurance coverage.~~

19 ~~(c) After receiving notification of the cessation of insurance~~
20 ~~coverage, the Secretary of State shall notify any affected locality of the~~
21 ~~cancellation of the homebuilder's insurance coverage and of the suspension of~~
22 ~~the homebuilder's registration.~~

23
24 SECTION 2. On the effective date of this act, any funds remaining in
25 the Secretary of State's accounts derived from the provisions of Arkansas
26 Code 17-34-107 shall be deposited into the State Central Services Fund as
27 "direct revenues" for the Contractors Licensing Board.

28
29 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly that this act is essential to the proper regulation of the
31 residential construction industry and that the regulatory provisions of Act
32 950 of 1999 shall become effective July 1, 2001. Therefore, an emergency is
33 declared to exist and this act being immediately necessary for the
34 preservation of the public peace, health and safety shall become effective on
35 July 1, 2001.

36 APPROVED: 3/12/2001