



General Assembly

February Session, 2000

Raised Bill No. 5590

LCO No. 1614

Referred to Committee on General Law

Introduced by:
(GL)

An Act Concerning Consumer Protection For New Home Construction.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of public act 99-246 is repealed and the
2 following is substituted in lieu thereof:

3 As used in [this act] public act 99-246:

4 (1) "Certificate" means a certificate of registration issued under
5 section 3 of [this act] public act 99-246;

6 (2) "Commissioner" means the Commissioner of Consumer
7 Protection or any person designated by the commissioner to
8 administer and enforce [this act] public act 99-246;

9 (3) "Contract" means any agreement between a new home
10 construction contractor and a consumer for the construction or sale of a
11 new home;

12 (4) "New home construction contractor" means any person who
13 contracts with a consumer to construct or sell a new home or any

14 portion of a new home prior to occupancy;

15 (5) "New home" means any newly constructed (A) single family
16 dwelling unit, [any] (B) dwelling consisting of not more than two
17 units, or (C) a unit, common element or limited common element in a
18 condominium, as defined in section 47-68a of the general statutes, or in
19 a common interest community, as defined in section 47-202 of the
20 general statutes;

21 (6) "Person" means one or more individuals, partnerships,
22 associations, corporations, limited liability companies, business trusts,
23 legal representatives or any organized group of persons; [and]

24 (7) "Consumer" means the [original] buyer or prospective buyer, or
25 the [original] buyer's or prospective buyer's heirs or designated
26 representatives, of any new home; and

27 (8) "Completion" means the stage of construction of a new home in
28 which the new home construction contractor is in receipt of such new
29 home's certificate of occupancy issued by the municipality in which
30 such new home is constructed.

31 Sec. 2. (NEW) Public act 99-246 does not apply to any of the
32 following persons or organizations: (1) Any person holding a current
33 license as a real estate broker or salesperson issued pursuant to chapter
34 392 of the general statutes, provided such real estate broker or
35 salesperson has not provided any services or work toward the
36 construction of a new home which said real estate broker or
37 salesperson has contracted to sell; (2) any person holding a
38 professional or occupational license, registration or certificate issued
39 pursuant to the general statutes, provided such person engages only in
40 the work for which such person is licensed, and provided further such
41 person pays into a guarantee fund that offers relief to new home
42 construction consumers; and (3) any new home construction contractor
43 who enters into one or more new home construction contracts related
44 to the same new home when such contract or contracts in the

45 aggregate with respect to that home has a total price for work or
46 services that is less than five thousand dollars.

47 Sec. 3. Section 2 of public act 99-246 is repealed and the following is
48 substituted in lieu thereof:

49 (a) No person shall engage in the business of new home
50 construction or hold oneself out as a new home construction contractor
51 unless such person has been issued a certificate of registration by the
52 commissioner in accordance with the provisions of [this act] public act
53 99-246. No new home construction contractor shall be relieved of
54 responsibility for the conduct and acts of its agents, employees or
55 officers by reason of such new home construction contractor's
56 compliance with the provisions of [this act] public act 99-246.

57 (b) Any person seeking a certificate of registration shall apply to the
58 commissioner, in writing, on a form provided by the commissioner.
59 The application shall include the applicant's name, residence or
60 business street address, business telephone number, [and] the identity
61 of the insurer that provides the applicant with insurance coverage for
62 liability [based upon the errors and omissions of the new home
63 construction contractor] and worker's compensation, and, if such
64 applicant is required by any provision of the general statutes to have
65 an agent for service of process, the name and address of such agent.
66 Each such application shall be accompanied by a fee of one hundred
67 twenty dollars, except that no such application fee shall be required if
68 such person has paid the registration fee required under section 20-421
69 of the general statutes, as amended, during any year in which such
70 person's registration as a new home construction contractor would be
71 valid.

72 (c) Certificates issued to new home construction contractors shall
73 not be transferable or assignable.

74 (d) All certificates issued under the provisions of [this act] public act
75 99-246 shall expire biennially. The fee for renewal of a certificate shall

76 be the same as the fee charged for an original application, except as
77 provided in subsection (c) of section 9 of [this act] public act 99-246.

78 (e) A certificate shall not be restored unless it is renewed not later
79 than one year after its expiration.

80 (f) Failure to receive a notice of expiration or a renewal application
81 shall not exempt a contractor from the obligation to renew.

82 Sec. 4. Section 4 of public act 99-246 is repealed and the following is
83 substituted in lieu thereof:

84 (a) A new home construction contractor shall, [(1)] prior to entering
85 into a contract with a consumer for new home construction, provide to
86 the consumer a copy of the new home construction contractor's
87 certificate of registration and a written notice that [(A)] (1) discloses
88 that the certificate of registration does not represent in any manner
89 that such contractor's registration constitutes an endorsement of the
90 quality of such person's work or of such contractor's competency by
91 the commissioner, [(B)] (2) advises the consumer to contact the
92 Department of Consumer Protection to determine [(i)] (A) if such
93 contractor is registered in this state as a new home construction
94 contractor, [(ii)] (B) if any complaints have been filed against such
95 contractor, and [(iii)] (C) the disposition of any such complaints, and
96 [(C)] (3) advises the consumer to request from such contractor a list of
97 [each individual or the fifteen most recent individuals, whichever is
98 less for whom such contractor has engaged in new home construction
99 during the current and preceding calendar year] consumers of the last
100 twelve new homes constructed to completion by the contractor during
101 the previous twenty-four months, or if the contractor has not
102 constructed at least twelve new homes to completion during the
103 previous twenty-four months, then a list of all consumers for whom
104 the contractor has constructed a new home to completion during the
105 previous twenty-four months, and to contact several individuals on
106 the list to discuss the quality of such contractor's new home
107 construction work. [, (2) state in any advertisement, including any

108 advertisement in a telephone directory, the fact that such contractor is
109 registered, and (3) include such contractor's registration number in any
110 such advertisement.]

111 (b) A new home construction contractor shall include in every
112 contract with a consumer a provision advising the consumer that the
113 consumer may be contacted by such contractor's prospective
114 consumers concerning the quality and timeliness of such contractor's
115 new home construction work, unless the consumer advises such
116 contractor, in writing, at the time the contract is executed, that the
117 consumer prefers not to be contacted.

118 (c) The written notice required in subsection (a) of this section shall
119 be in capital letters not less than ten-point bold face type, and may
120 include a statement in substantially the following form:

121 "NEW HOME CONSTRUCTION CONTRACTOR

122 REGISTRATION NOTICE

123 A CERTIFICATE OF REGISTRATION AS A NEW HOME
124 CONSTRUCTION CONTRACTOR DOES NOT REPRESENT IN ANY
125 MANNER THAT THE CONNECTICUT DEPARTMENT OF
126 CONSUMER PROTECTION ENDORSES THE QUALITY OF THE
127 CONTRACTOR'S NEW HOME CONSTRUCTION WORK OR THE
128 CONTRACTOR'S COMPETENCY TO ENGAGE IN NEW HOME
129 CONSTRUCTION.

130 ACCORDINGLY, YOU ARE ADVISED TO:

131 (1) REQUEST FROM THE CONTRACTOR A LIST OF [EACH
132 INDIVIDUAL OR THE FIFTEEN MOST RECENT INDIVIDUALS,
133 WHICHEVER IS LESS, FOR WHOM THE CONTRACTOR HAS
134 ENGAGED IN NEW HOME CONSTRUCTION IN THIS STATE
135 DURING THE CURRENT AND PRECEDING CALENDAR YEAR]
136 consumers of the last twelve new homes constructed to completion by
137 the contractor during the previous twenty-four months, or if the

138 contractor has not constructed at least twelve new homes to
139 completion during the previous twenty-four months, then a list of all
140 consumers for whom the contractor has constructed a new home to
141 completion during the previous twenty-four months,

142 (2) CONTACT SEVERAL INDIVIDUALS ON THE LIST TO
143 DISCUSS THE QUALITY AND THE TIMELINESS OF THE
144 CONTRACTOR'S NEW HOME CONSTRUCTION WORK, AND

145 (3) CONTACT THE DEPARTMENT OF CONSUMER
146 PROTECTION TO VERIFY THE REGISTRATION INFORMATION
147 PRESENTED BY THE CONTRACTOR AND TO ASCERTAIN THE
148 CONTRACTOR'S COMPLAINT HISTORY WITH THE
149 DEPARTMENT.

150 IN ADDITION, YOU ARE ADVISED TO DISCUSS WITH THE
151 NEW HOME CONSTRUCTION CONTRACTOR:

152 (1) WHETHER THE CONTRACTOR HAS A CUSTOMER SERVICE
153 POLICY AND IF SO, THE IDENTITY OF THE PERSON
154 DESIGNATED TO ASSIST YOU IN RESOLVING ANY COMPLAINT
155 ABOUT THE CONTRACTOR'S WORK, AND

156 (2) WHETHER THE CONTRACTOR WILL HOLD YOU
157 HARMLESS FOR WORK PERFORMED BY ANY SUBCONTRACTOR
158 HIRED BY THE CONTRACTOR.

159 THIS NOTICE DOES NOT CONTAIN AN EXHAUSTIVE LIST OF
160 THE INQUIRIES YOU SHOULD MAKE BEFORE CONTRACTING
161 WITH A NEW HOME CONSTRUCTION CONTRACTOR.
162 ADDITIONAL INFORMATION TO ASSIST YOU IN YOUR
163 SELECTION OF A NEW HOME CONSTRUCTION CONTRACTOR
164 MAY BE OBTAINED BY CONTACTING THE CONNECTICUT
165 DEPARTMENT OF CONSUMER PROTECTION."

166 (d) No person shall: (1) Present, or attempt to present as such
167 person's own, the certificate of another; (2) knowingly give false

168 evidence of a material nature to the commissioner for the purpose of
169 procuring a certificate; (3) represent such person falsely as, or
170 impersonate, a registered new home construction contractor; (4) use or
171 attempt to use a certificate which has expired or which has been
172 suspended or revoked; (5) engage in the business of a new home
173 construction contractor or hold oneself out as a new home construction
174 contractor without having a current certificate of registration under
175 [this act] public act 99-246; (6) represent in any manner that such
176 person's registration constitutes an endorsement of the quality of such
177 person's work or of such person's competency by the commissioner; or
178 (7) fail to refund a deposit paid to a new home construction contractor
179 not later than ten days after a written request mailed or delivered to
180 the new home construction contractor's last known address, if (A) the
181 consumer has complied with the terms of the written contract up to the
182 time of the request, (B) no substantial portion of the contracted work
183 has been performed at the time of the request, (C) more than thirty
184 days has elapsed since the starting date specified in the written
185 contract or more than thirty days has elapsed since the date of the
186 contract if such contract does not specify a starting date, and (D) the
187 new home construction contractor has failed to provide a reasonable
188 explanation to the consumer concerning such contractor's failure to
189 perform a substantial portion of the contracted work. For purposes of
190 this subdivision, "substantial portion of the contracted work" includes,
191 but is not limited to, work performed by the new home construction
192 contractor to (i) secure permits and approvals, (ii) redraft plans or
193 obtain engineer, architect, surveyor or other approvals for changes
194 requested by the consumer or made necessary by site conditions
195 discovered after the contract is executed, (iii) scheduling site work or
196 arranging for other contractors to perform services related to the
197 construction of the consumer's new home, and (iv) any other work
198 referred to in the contract as a "substantial portion of the contracted
199 work."

Statement of Purpose:

To exempt from registration as a new home construction contractor, persons engaged in certain work for which they are already licensed under the general statutes; to extend consumer protection for new home construction to cover new homes bought by developers to be sold later to consumers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]