



General Assembly

Substitute Bill No. 5160

February Session, 2004

* HB05160JUD 040704 *

**AN ACT CONCERNING NEW HOME CONSTRUCTION
CONTRACTORS AND HOME IMPROVEMENT CONTRACTORS.**

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

1 Section 1. Section 20-417d of the general statutes, as amended by
2 section 93 of public act 03-3 of the June 30 special session and section
3 146 of public act 03-6 of the June 30 special session, is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2004*):

5 (a) A new home construction contractor shall (1) prior to entering
6 into a contract with a consumer for new home construction, provide to
7 the consumer a copy of the new home construction contractor's
8 certificate of registration and a written notice that (A) discloses that the
9 certificate of registration does not represent in any manner that such
10 contractor's registration constitutes an endorsement of the quality of
11 such person's work or of such contractor's competency by the
12 commissioner, (B) advises the consumer to contact the Department of
13 Agriculture and Consumer Protection to determine (i) if such
14 contractor is registered in this state as a new home construction
15 contractor, (ii) if any complaints have been filed against such
16 contractor, and (iii) the disposition of any such complaints, and (C)
17 advises the consumer to request from such contractor a list of
18 consumers of the last twelve new homes constructed to completion by
19 the contractor during the previous twenty-four months [,] or, if the

20 contractor has not constructed at least twelve new homes to
21 completion during the previous twenty-four months, then a list of all
22 consumers for whom the contractor has constructed a new home to
23 completion during the previous twenty-four months, and to contact
24 several individuals on the list to discuss the quality of such contractor's
25 new home construction work, (2) state in any advertisement, including
26 any advertisement in a telephone directory, the fact that such
27 contractor is registered, and (3) include such contractor's registration
28 number in any such advertisement. The new home construction
29 contractor, or [his] such contractor's agent, shall also discuss with the
30 consumer the installation of an automatic fire extinguishing system in
31 a new home.

32 (b) No new home construction contract shall be valid or enforceable
33 against a consumer unless (1) the original contract (A) is in writing and
34 signed by the consumer and the new home construction contractor,
35 and (B) contains the date of transaction, the name and business
36 address of the new home construction contractor and a starting date
37 and estimated completion date as described in this subsection, (2) any
38 oral change orders are reduced to writing signed by the consumer and
39 the new home construction contractor prior to the contract completion
40 date, and the original contract and all written and oral change orders
41 contain the entire agreement between the consumer and the new home
42 construction contractor, and (3) it is entered into by a registered new
43 home construction contractor. For the purpose of this subsection, the
44 starting date shall be the date on which the new home construction
45 contractor begins to perform its obligations under the contract,
46 including any work that constitutes a substantial portion of the
47 contracted work, as defined in subsection (e) of this section; and the
48 estimated completion date shall be extended by any changes in the
49 completion date occurring due to change orders agreed to by the
50 consumer and the new home construction contractor, or due to
51 government intervention or an act of God.

52 [(b)] (c) A new home construction contractor shall include in every
53 contract with a consumer a provision advising the consumer that the

54 consumer may be contacted by such contractor's prospective
55 consumers concerning the quality and timeliness of such contractor's
56 new home construction work, unless the consumer advises such
57 contractor, in writing, at the time the contract is executed, that the
58 consumer prefers not to be contacted.

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

62 "NEW HOME CONSTRUCTION CONTRACTOR

63 REGISTRATION NOTICE

64 A CERTIFICATE OF REGISTRATION AS A NEW HOME
65 CONSTRUCTION CONTRACTOR DOES NOT REPRESENT IN ANY
66 MANNER THAT THE CONNECTICUT DEPARTMENT OF
67 AGRICULTURE AND CONSUMER PROTECTION ENDORSES THE
68 QUALITY OF THE CONTRACTOR'S NEW HOME CONSTRUCTION
69 WORK OR THE CONTRACTOR'S COMPETENCY TO ENGAGE IN
70 NEW HOME CONSTRUCTION.

71 ACCORDINGLY, YOU ARE ADVISED TO:

72 (1) REQUEST FROM THE CONTRACTOR A LIST OF
73 CONSUMERS OF THE LAST TWELVE NEW HOMES
74 CONSTRUCTED TO COMPLETION BY THE CONTRACTOR
75 DURING THE PREVIOUS TWENTY-FOUR MONTHS, OR IF THE
76 CONTRACTOR HAS NOT CONSTRUCTED AT LEAST TWELVE
77 NEW HOMES TO COMPLETION DURING THE PREVIOUS
78 TWENTY-FOUR MONTHS, THEN A LIST OF ALL CONSUMERS
79 FOR WHOM THE CONTRACTOR HAS CONSTRUCTED A NEW
80 HOME TO COMPLETION DURING THE PREVIOUS TWENTY-
81 FOUR MONTHS,

82 (2) CONTACT SEVERAL INDIVIDUALS ON THE LIST TO
83 DISCUSS THE QUALITY AND THE TIMELINESS OF THE

84 CONTRACTOR'S NEW HOME CONSTRUCTION WORK, AND

85 (3) CONTACT THE DEPARTMENT OF AGRICULTURE AND
86 CONSUMER PROTECTION TO VERIFY THE REGISTRATION
87 INFORMATION PRESENTED BY THE CONTRACTOR AND TO
88 ASCERTAIN THE CONTRACTOR'S COMPLAINT HISTORY WITH
89 THE DEPARTMENT.

90 IN ADDITION, YOU ARE ADVISED TO DISCUSS WITH THE
91 NEW HOME CONSTRUCTION CONTRACTOR:

92 (1) WHETHER THE CONTRACTOR HAS A CUSTOMER SERVICE
93 POLICY AND IF SO, THE IDENTITY OF THE PERSON
94 DESIGNATED TO ASSIST YOU IN RESOLVING ANY COMPLAINT
95 ABOUT THE CONTRACTOR'S WORK,

96 (2) WHETHER THE CONTRACTOR WILL HOLD YOU
97 HARMLESS FOR WORK PERFORMED BY ANY SUBCONTRACTOR
98 HIRED BY THE CONTRACTOR, AND

99 (3) THE INSTALLATION OF AN AUTOMATIC FIRE
100 EXTINGUISHING SYSTEM.

101 THIS NOTICE DOES NOT CONTAIN AN EXHAUSTIVE LIST OF
102 THE INQUIRIES YOU SHOULD MAKE BEFORE CONTRACTING
103 WITH A NEW HOME CONSTRUCTION CONTRACTOR.
104 ADDITIONAL INFORMATION TO ASSIST YOU IN YOUR
105 SELECTION OF A NEW HOME CONSTRUCTION CONTRACTOR
106 MAY BE OBTAINED BY CONTACTING THE CONNECTICUT
107 DEPARTMENT OF AGRICULTURE AND CONSUMER
108 PROTECTION."

109 [(d)] (e) No person shall: (1) Present, or attempt to present as such
110 person's own, the certificate of another; (2) knowingly give false
111 evidence of a material nature to the commissioner for the purpose of
112 procuring a certificate; (3) represent such person falsely as, or
113 impersonate, a registered new home construction contractor; (4) use or

114 attempt to use a certificate which has expired or which has been
115 suspended or revoked; (5) engage in the business of a new home
116 construction contractor or hold himself or herself out as a new home
117 construction contractor without having a current certificate of
118 registration under sections 20-417a to 20-417i, inclusive, as amended,
119 and subsection (b) of section 20-421; (6) represent in any manner that
120 such person's registration constitutes an endorsement of the quality of
121 such person's work or of such person's competency by the
122 commissioner; or (7) fail to refund a deposit paid to a new home
123 construction contractor not later than ten days after a written request
124 mailed or delivered to the new home construction contractor's last
125 known address, if (A) the consumer has complied with the terms of the
126 written contract up to the time of the request, (B) no substantial
127 portion of the contracted work has been performed at the time of the
128 request, (C) more than thirty days has elapsed since the starting date
129 specified in the written contract or more than thirty days has elapsed
130 since the date of the contract if such contract does not specify a starting
131 date, and (D) the new home construction contractor has failed to
132 provide a reasonable explanation to the consumer concerning such
133 contractor's failure to perform a substantial portion of the contracted
134 work. For purposes of this subdivision, "substantial portion of the
135 contracted work" includes, but is not limited to, work performed by
136 the new home construction contractor to (i) secure permits and
137 approvals, (ii) redraft plans or obtain engineer, architect, surveyor or
138 other approvals for changes requested by the consumer or made
139 necessary by site conditions discovered after the contract is executed,
140 (iii) schedule site work or arrange for other contractors to perform
141 services related to the construction of the consumer's new home, and
142 (iv) do any other work referred to in the contract as a "substantial
143 portion of the contracted work".

144 (f) Nothing in this section shall limit the right of a new home
145 construction contractor who fails to comply with the registration
146 requirements of this chapter or the written contract requirements of
147 this section to seek recovery against a consumer for the reasonable

148 value of the services or materials that such new home construction
149 contractor rendered to such consumer based on common law
150 restitutionary causes of action including, but not limited to, quantum
151 meruit, quasi contract, implied contract and unjust enrichment.

152 Sec. 2. Section 20-417e of the general statutes, as amended by section
153 2 of public act 03-167, is repealed and the following is substituted in
154 lieu thereof (*Effective October 1, 2004*):

155 In addition to any other remedy provided for in sections 20-417a to
156 20-417i, inclusive, as amended, [and subsection (b) of section 20-421,]
157 any person who violates any provision of [subsection (d)] subdivisions
158 (1) to (6), inclusive of subsection (e) of section 20-417d, as amended by
159 this act, shall be guilty of a class A misdemeanor. Notwithstanding
160 subsection (d) of section 53a-29 or section 54-56e, as amended, if the
161 court determines that a contractor cannot fully repay any victim of the
162 violations committed by the contractor within the period of probation
163 established in subsection (d) of section 53a-29 or section 54-56e, as
164 amended, the court may impose probation for a period of not more
165 than five years. Any person who violates the provisions of subdivision
166 (7) of subsection [(d)] (e) of section 20-417d, as amended by this act,
167 shall be liable for treble damages and shall be guilty of a class A
168 misdemeanor. Notwithstanding section 54-193, such person may be
169 prosecuted within three years after such violation.

170 Sec. 3. Subsection (c) of section 20-427 of the general statutes is
171 repealed and the following is substituted in lieu thereof (*Effective*
172 *October 1, 2004*):

173 (c) In addition to any other remedy provided for in this chapter, (1)
174 any person who violates any provision of subsection (b) of this section,
175 except [subdivision (8)] subdivision (6), (7) or (8) of said subsection (b),
176 shall be guilty of a class [B] A misdemeanor, and (2) any person who
177 violates the provisions of subdivision (8) of subsection (b) of this
178 section shall be guilty of a class B misdemeanor if the home
179 improvement that is offered or made has a total cash price of [ten] one

180 thousand dollars or less and shall be guilty of a class A misdemeanor if
181 the home improvement that is offered or made has a total cash price of
182 more than [ten] one thousand dollars. Any person who violates the
183 provisions of subdivision (6) or (7) of subsection (b) of this section shall
184 be guilty of a class B misdemeanor. Notwithstanding subsection (d) of
185 section 53a-29 or section 54-56e, as amended, if the court determines
186 that a contractor cannot fully repay his victims within the period of
187 probation established in subsection (d) of section 53a-29 or section 54-
188 56e, as amended, the court may impose probation for a period of not
189 more than five years. A violation of any of the provisions of this
190 chapter shall be deemed an unfair or deceptive trade practice under
191 subsection (a) of section 42-110b.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

JUD *Joint Favorable Subst.*