



General Assembly

**Substitute Bill No. 948**

January Session, 2005

\* \_\_\_\_\_SB00948PD\_\_\_\_\_051705\_\_\_\_\_\*

**AN ACT CONCERNING THE FAILURE OF A MUNICIPALITY TO OBTAIN A BOND FROM CERTAIN CONTRACTORS, PREPAID HOME HEATING OIL CONTRACTS AND HEAT AND UTILITY SURCHARGE CLAUSES IN RESIDENTIAL LEASES.**

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

1 Section 1. Section 49-41 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Each contract exceeding fifty thousand dollars in amount for the  
4 construction, alteration or repair of any public building or public work  
5 of the state or of any subdivision thereof shall include a provision that  
6 the person to perform the contract shall furnish to the state or the  
7 subdivision on or before the award date, a bond in the amount of the  
8 contract which shall be binding upon the award of the contract to that  
9 person, with a surety or sureties satisfactory to the officer awarding  
10 the contract, for the protection of persons supplying labor or materials  
11 in the prosecution of the work provided for in the contract for the use  
12 of each such person, provided no such bond shall be required to be  
13 furnished (1) in relation to any general bid in which the total estimated  
14 cost of labor and materials under the contract with respect to which  
15 such general bid is submitted is less than fifty thousand dollars, (2) in  
16 relation to any sub-bid in which the total estimated cost of labor and  
17 materials under the contract with respect to which such sub-bid is  
18 submitted is less than fifty thousand dollars, or (3) in relation to any

19 general bid or sub-bid submitted by a consultant, as defined in section  
20 4b-55. Any such bond furnished shall have as principal the name of the  
21 person awarded the contract.

22 (b) Nothing in this section or sections 49-41a to 49-43, inclusive,  
23 shall be construed to limit the authority of any contracting officer to  
24 require a performance bond or other security in addition to the bond  
25 referred to in subsection (a) of this section, except that no such officer  
26 shall require a performance bond in relation to any general bid in  
27 which the total estimated cost of labor and materials under the contract  
28 with respect to which such general bid is submitted is less than  
29 twenty-five thousand dollars or in relation to any sub-bid in which the  
30 total estimated cost of labor and materials under the contract with  
31 respect to which such sub-bid is submitted is less than fifty thousand  
32 dollars.

33 (c) No contract for the construction, alteration or repair of any  
34 public building or public work of the state or of any subdivision  
35 thereof that requires a person to supply the state or subdivision with a  
36 bond may include a provision that requires the person to obtain the  
37 bond from a specific surety, agent, broker or producer. No contracting  
38 officer may require that a bond be obtained from a specific surety,  
39 agent, broker or producer.

40 (d) Any political subdivision of the state that enters into a contract  
41 described in subsection (a) of this section and that fails to obtain  
42 delivery from the contractor of the bond required by this section shall,  
43 upon demand of any person who has not been paid by the contractor  
44 for labor or materials supplied in the performance of the work under  
45 such contract, remit payment for such labor or materials. In the event  
46 such political subdivision of the state fails to remit such payment, any  
47 person who provided such labor or materials in the performance of the  
48 work under the contract shall have the same legal right of action  
49 against such political subdivision of the state as such person would  
50 have had against a surety under the provisions of section 49-42.  
51 Nothing in this section shall be construed to extend liability to the state

52 for any person's right to payment or constitute a waiver of the state's  
53 sovereign immunity.

54 Sec. 2. Section 16a-23n of the general statutes is repealed and the  
55 following is substituted in lieu thereof (*Effective from passage*):

56 (a) A contract for the retail sale of home heating oil that offers a  
57 guaranteed price plan, including fixed price contracts and any other  
58 similar terms, shall be in writing and the terms and conditions of such  
59 price plans shall be disclosed. Such disclosure shall be in plain  
60 language and shall immediately follow the language concerning the  
61 price or service that could be affected and shall be printed in no less  
62 than twelve-point boldface type of uniform font.

63 (b) A home heating oil dealer that advertises a price shall offer said  
64 price for a period of no less than twenty-four hours or until the next  
65 advertised price is publicized, whichever occurs first.

66 (c) No home heating oil dealer shall enter into a prepaid home  
67 heating oil contract unless such dealer has either: (1) Obtained and  
68 maintained heating oil futures contracts or other similar commitments  
69 that allow such dealer to purchase, at a fixed price, heating oil in an  
70 amount not less than seventy-five per cent of the maximum number of  
71 gallons that such dealer is committed to deliver pursuant to all prepaid  
72 home heating oil contracts entered into by such dealer, or (2) obtained  
73 and maintained a surety bond in an amount not less than fifty per cent  
74 of the total amount of funds paid to the dealer by consumers pursuant  
75 to prepaid home heating oil contracts. Such dealer shall maintain the  
76 amount of futures contracts or the amount of the surety bond required  
77 by this subsection for the period of time for which such prepaid home  
78 heating oil contracts are effective, except that the amount of such  
79 futures contracts or surety bond may be reduced during such period of  
80 time to reflect any amount of home heating oil already delivered to  
81 and paid for by the consumer.

82 (d) No prepaid home heating oil contract shall require any  
83 consumer commitment to purchase home heating oil pursuant to the

84 terms of such contract for a period of more than eighteen months.

85 (e) Any prepaid home heating oil contract shall indicate: (1) The  
86 amount of funds paid by the consumer to the dealer under such  
87 contract, (2) the maximum number of gallons of home heating oil  
88 committed by the dealer for delivery to the consumer pursuant to such  
89 contract, and (3) that performance of such prepaid home heating oil  
90 contract is secured by one of the two options described in subsection  
91 (c) of this section. Any such contract shall provide that the contract  
92 price of any undelivered home heating oil owed to the consumer  
93 under the contract, on the end date of such contract, shall be  
94 reimbursed to the consumer not later than thirty days after the end  
95 date of such contract unless the parties to such contract agree  
96 otherwise.

97 Sec. 3. Section 16a-23p of the general statutes is repealed and the  
98 following is substituted in lieu thereof (*Effective from passage*):

99 The Department of Consumer Protection may suspend or revoke  
100 any registration issued under section 16a-23m if the holder of such  
101 registration is grossly incompetent, engages in malpractice or unethical  
102 conduct or knowingly makes false, misleading or deceptive  
103 representations regarding such holder's work, [or] violates any  
104 provision of section 16a-23n, as amended by this act, or violates any  
105 regulations adopted under section 16a-23q. Before any such  
106 registration is suspended or revoked, such holder shall be given notice  
107 and opportunity for hearing as provided in regulations adopted by the  
108 Commissioner of Consumer Protection in accordance with the  
109 provisions of chapter 54.

110 Sec. 4. Section 16a-23r of the general statutes is repealed and the  
111 following is substituted in lieu thereof (*Effective from passage*):

112 (a) A violation of the provisions of section 16a-23m, 16a-23n, as  
113 amended by this act, or 16a-23o constitutes an unfair trade practice  
114 under subsection (a) of section 42-110b.

115        (b) In accordance with the provisions of section 53a-11, any home  
 116 heating oil dealer who knowingly violates the provisions of subsection  
 117 (c) of section 16a-23n, as amended by this act, shall have committed a  
 118 class A misdemeanor.

119        Sec. 5. Section 47a-4 of the general statutes is repealed and the  
 120 following is substituted in lieu thereof (*Effective October 1, 2005*):

121        (a) A rental agreement shall not provide that the tenant: (1) Agrees  
 122 to waive or forfeit rights or remedies under this chapter and sections  
 123 47a-21, 47a-23 to 47a-23b, inclusive, 47a-26 to 47a-26g, inclusive, 47a-35  
 124 to 47a-35b, inclusive, 47a-41a, 47a-43 and 47a-46, or under any section  
 125 of the general statutes or any municipal ordinance unless such section  
 126 or ordinance expressly states that such rights may be waived; (2)  
 127 authorizes the landlord to confess judgment on a claim arising out of  
 128 the rental agreement; (3) agrees to the exculpation or limitation of any  
 129 liability of the landlord arising under law or to indemnify the landlord  
 130 for that liability or the costs connected therewith; (4) agrees to waive  
 131 his right to the interest on the security deposit pursuant to section 47a-  
 132 21; (5) agrees to permit the landlord to dispossess him without resort  
 133 to court order; (6) consents to the distraint of his property for rent; (7)  
 134 agrees to pay the landlord's attorney's fees in excess of fifteen per cent  
 135 of any judgment against the tenant in any action in which money  
 136 damages are awarded; [or] (8) agrees to pay a late charge prior to the  
 137 expiration of the grace period set forth in section 47a-15a or to pay rent  
 138 in a reduced amount if such rent is paid prior to the expiration of such  
 139 grace period; or (9) agrees to pay a heat or utilities surcharge if heat or  
 140 utilities is included in the rental agreement.

141        (b) A provision prohibited by subsection (a) of this section included  
 142 in a rental agreement is unenforceable.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	49-41
Sec. 2	<i>from passage</i>	16a-23n

