

# New Home Construction Contractor Requirements

By: Duke Chen, Principal Analyst  
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## Issue

Provide an overview of the law's new home construction contractor requirements and the New Home Construction Guaranty Fund.

## Summary

Connecticut law generally requires new home construction contractors to register with the Department of Consumer Protection (DCP). The contractors are subject to various disclosure and advertisement requirements and to enforcement mechanisms (e.g., fines or registration penalties).

The New Home Construction Guaranty Fund reimburses consumers (up to \$30,000 per claim) who are unable to recover losses for damages caused by registered new home construction contractors. It is funded by biennial fees paid by these contractors and capped at \$750,000 annually. In any year when the fund reaches its cap, excess funds are transferred to DCP's Consumer Protection Enforcement Account and then to the General Fund.

## New Home Construction Contractors

### *Registration*

With certain limited exceptions, the law requires new home construction contractors to register with DCP (see exemptions below). Contractors subject to the registration requirement must pay a \$240 biennial application fee (except contractors do not need to pay such fee in any year they paid the home improvement contractor registration fee) ([CGS §§ 20-417b](#) and [20-421](#)). A "new home contractor" is a business or individual who contracts with a consumer to build a new home or a

portion of one before it is occupied. Generally, a "new home" is a newly built (1) single family dwelling; (2) dwelling of up to two units; or (3) unit or common space in a condominium or common interest community ([CGS § 20-417a](#)). Compliance with the new home construction law does not relieve contractors of the responsibility for the conduct of their agents, employees, or officers ([CGS § 20-417b\(a\)](#)).

Applicants for a new home construction registration certificate must apply in writing to the DCP commissioner. The application must include (1) the contractor's name and business address and telephone number; (2) the name of their liability insurer; (3) the name of their workers' compensation insurer, if they are required by law to have such coverage; and (4) the name and address of their agent for service of process, if they are required by law to have such an agent. Registrations are not transferable or assignable ([CGS § 20-417b](#)).

The registration renewal fee is the same as the initial registration fee (\$240). (However, the renewal fee is waived in a year when the contractor paid the \$120 home improvement contractor registration fee.) Registrations expire biennially; but contractors may renew them up to six months after their expiration, in which case the fee is calculated on a pro rata basis depending on the application date. Failing to receive the renewal application or notice of the expiration does not exempt the contractor from the renewal requirement.

### ***Exemptions***

The law exempts the following individuals or organizations from its new home construction contractor registration requirements:

1. licensed real estate brokers or salespersons working within the scope of their license;
2. those licensed or authorized to sell or place mobile manufactured homes in a mobile manufactured home park, space, or lot, if they are working within the scope of their license or authorization;
3. licensed, registered, or certified professionals or tradespersons working within the scope of their credential; and
4. new home construction contractors who enter into contracts that have an aggregate value of less than \$3,500 for a single home ([CGS § 20-417j](#)).

### ***Disclosures***

By law, before entering into a new home construction contract with a consumer, a contractor must provide the consumer with a copy of his or her registration certificate ([CGS § 20-417d](#)). Additionally,

the contractor must provide the consumer with a written notice, in capital letters and 10-point boldface type, that:

1. discloses that the registration does not represent an endorsement by the DCP commissioner concerning the contractor;
2. advises the consumer to contact DCP to determine if the contractor is registered as a new home construction contractor, if any complaints have been filed against the contractor, and the disposition of any such complaints;
3. advises the consumer to request from the contractor a list of consumers for whom he or she has completed new home constructions during the previous 24 months and to contact several individuals on the list to discuss the quality of the contractor's work; and
4. discloses each business entity that is or has been a new home construction contractor or a home improvement contractor in which any owner of the new home construction contractor providing the written notice has been a shareholder, member, partner, or owner during the previous five years.

***Model Form.*** The law establishes a model disclosure form that contractors may use to provide consumers with the required written notice. Any other disclosure form that a contractor uses must be substantially similar to the model form.

In addition to providing the information listed above, the model form advises the consumer to discuss with the contractor whether the contractor (1) has a customer service policy and (2) will hold the consumer harmless for any work performed by a subcontractor. If the contractor has a service policy, the form advises the consumer to ask for the name of the person designated to assist the consumer. The form also advises the consumer to discuss with the contractor the installation of an automatic fire extinguishing system. Finally, the model form states that the written notice does not include a complete list of questions a consumer should ask before signing a new home construction contract and that DCP may be contacted for additional information.

### ***Advertisements***

The law establishes certain advertising requirements for new home construction contractors. It requires them to (1) state in any advertisement, including in a telephone directory, the fact that they are registered and (2) include their registration number in the advertisement ([CGS § 20-417d\(a\)](#)).

### ***Building and Construction Permits***

The law prohibits new home construction contractors from beginning work until they have obtained all applicable building or construction permits ([CGS § 20-417h](#)). It prohibits a building official from

issuing a building or construction permit to a contractor unless the contractor has presented the required registration certificate and number.

### ***Prohibited Acts***

The law prohibits certain acts with respect to new home construction contractors. Specifically, it prohibits anyone from:

1. presenting or attempting to present another's registration as his or her own;
2. knowingly giving false material evidence to the DCP commissioner in order to register;
3. falsely representing or impersonating a registered contractor;
4. using or attempting to use an expired, suspended, or revoked registration;
5. engaging in the business of new home construction or holding himself or herself out as a home construction contractor without a current registration;
6. representing that a registration constitutes a state endorsement about work quality or competency; or
7. failing to refund a deposit within 10 days as required by law ([CGS § 417d\(d\)](#)).

Concerning deposits, the law requires new home construction contractors to refund a deposit within 10 days if (1) the consumer requests it in writing and mails or delivers to the contractor's last known address; (2) the consumer has complied with the contract up to the time of the request; (3) a substantial part of the work has not been completed; (4) more than 30 days have passed since the scheduled start date or, if the contract does not specify a start date, since the date of the contract; and (5) the contractor has not provided a reasonable explanation of why he has failed to perform a substantial portion of the contracted work.

For this purpose, "substantial portion of the contracted work" includes (1) securing permits and approvals; (2) redrafting plans or obtaining engineer, architect, surveyor, or other approvals for changes requested by the consumer or caused by site conditions discovered after the contract was signed; (3) scheduling site work or arranging for other contractors; and (4) other work identified in the contract as "substantial portion of the contracted work."

### ***Enforcement***

***Criminal Penalty.*** A violation of one of the above prohibited acts is a class A misdemeanor, punishable by up to one year imprisonment, a fine of up to \$2,000, or both ([CGS § 20-417e](#)). A contractor who fails to provide a refund as described above is liable for treble damages.

The law authorizes the court to order up to five years of probation if it determines that a contractor cannot fully repay a victim of the violations described above within the probation period the law prescribes.

***Administrative Penalty.*** After providing notice and the opportunity for a hearing in accordance with the Uniform Administrative Procedure Act (UAPA), DCP can impose a civil penalty on anyone who (1) works without a current registration or (2) violates any provision of the new home contractor law. The penalty may be up to \$500 for a first violation, up to \$750 for a second violation, and up to \$1,500 for subsequent violations. The higher penalties are incurred only if a second or subsequent violation occurs within three years after the preceding violation ([CGS § 20-417f](#)).

Any civil penalty collected is deposited into the Consumer Protection Enforcement Account, which DCP uses for expenses related to enforcing state occupational and business licensing and registration laws.

***Connecticut Unfair Trade Practices Act (CUTPA).*** The law deems any violation of the new home construction contractor law to be a CUTPA violation ([CGS § 20-417g](#)). CUTPA, provides the DCP commissioner with various investigatory and enforcement tools and allows, among other things, the courts to impose civil penalties of up to \$5,000 for willful violations and \$25,000 for restraining order violations ([CGS § 42-110a et seq.](#)).

***Administrative Discipline.*** After providing notice and the opportunity for a hearing in accordance with the UAPA, the DCP commissioner may take disciplinary action against a contractor who engages in certain the following conduct:

1. violating the new home contractor law;
2. obtaining a registration through fraud or misrepresentation;
3. engaging in conduct likely to mislead, deceive, or defraud the public or commissioner;
4. engaging in untruthful or misleading advertising;
5. failing to reimburse the guaranty fund;
6. engaging in unfair or deceptive business practices under CUTPA;
7. failing to fulfill a contractual requirement on time;
8. failing to fix any violation of the law establishing warranties on new homes;

9. failing to fix a violation of the State Building Code; or
10. failing, if applicable, to maintain a certificate of good standing issued by the Secretary of the State ([CGS § 20-417c](#)).

For these violations, the commissioner may suspend, revoke, or refuse to issue or renew a contractor's registration; put a contractor on probation; or issue a letter of reprimand.

## New Home Construction Guaranty Fund

The New Home Construction Guaranty Fund reimburses consumers who are unable to recover losses for damages caused by registered new home construction contractors. It is funded by biennial fees paid by new home construction contractors. The maximum reimbursement is \$30,000 per claim ([CGS § 20-417i](#)).

The amount allowed in the fund is capped at \$750,000 annually. When the fund reaches its cap, the first \$400,000 of the excess is transferred to DCP's Consumer Protection Enforcement Account. Any excess over \$400,000 is transferred to the General Fund.

The fund is capitalized by a \$480 biennial fee paid by each new home construction contractor. Table 1 shows the total receipts, number of consumers who have accessed the guaranty fund, and the total and average amount paid out since FY 14.

**Table 1: New Home Construction Guaranty Fund**

<i>Fiscal Year</i>	<i>Total Receipts</i>	<i>Number of Restitutions Paid</i>	<i>Total Amount Paid</i>	<i>Average Amount Paid Per Claim</i>
2019 (as of May 31)	\$182,877	6	\$180,000	\$30,000
2018	1,104,871	6	149,874	24,979
2017	173,005	9	195,321	21,702
2016	1,267,593	8	183,817	22,977
2015	176,180	10	265,667	26,567
2014	1,267,066	47	1,128,692	24,015
<b>Total</b>	<b>4,171,592</b>	<b>86</b>	<b>2,103,371</b>	<b>24,458</b>

\*Source: DCP

A consumer who obtains a court judgment against a registered contractor may apply to DCP for restitution for the amount of the judgment, other than punitive damages and minus any amount

already recovered from the contractor. The request must be made within two years after the final judgment has been made or the time for appeal has passed.

The consumer must assign DCP the right to recover the money once he or she has been paid from the fund. The DCP commissioner may revoke any contractor's registration whose actions have caused a guaranty fund payment and condition his or her reinstatement on repaying the fund. The commissioner may allow a contractor to register before repayment if he or she agrees to repay by a certain date.

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