



# Senate

General Assembly

**File No. 156**

February Session, 2024

Substitute Senate Bill No. 201

*Senate, March 28, 2024*

The Committee on General Law reported through SEN. MARONEY of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE ATTORNEY GENERAL'S  
RECOMMENDATIONS REGARDING PRICE DISCLOSURE, SERVICE  
AGREEMENTS, THE NEW HOME CONSTRUCTION GUARANTY FUND  
AND THE CONNECTICUT UNFAIR TRADE PRACTICES ACT.***

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

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) For the purposes of this  
2 section, "person" means an individual, corporation, limited liability  
3 company, trust, partnership, incorporated or unincorporated  
4 association or other legal entity doing business in this state.

5 (b) No person shall advertise, display or offer any price in trade or  
6 commerce in this state unless such price clearly and conspicuously  
7 discloses the total price, which total price shall include all mandatory  
8 fees and charges other than any applicable tax imposed by a  
9 government entity.

10 (c) A violation of subsection (b) of this section shall be deemed an  
11 unfair or deceptive trade practice under subsection (a) of section 42-110b  
12 of the general statutes.

13 Sec. 2. (NEW) (*Effective July 1, 2024*) For the purposes of this section

14 and sections 3 to 7, inclusive, of this act:

15 (1) "Person" has the same meaning as provided in section 20-329a of  
16 the general statutes;

17 (2) "Record" means to present any instrument to a town clerk for  
18 placement in the land records pursuant to section 7-24 of the general  
19 statutes;

20 (3) "Residential real property" means one-family to four-family  
21 residential real estate located in this state;

22 (4) "Service agreement" means any contract under which a service  
23 provider agrees to provide any service to any person in this state in  
24 connection with any maintenance, purchase or sale of residential real  
25 property;

26 (5) "Service provider" means any person that provides, or agrees to  
27 provide, any service to any other person in this state in connection with  
28 any maintenance, purchase or sale of residential real property; and

29 (6) "Unfair service agreement" means any service agreement that (A)  
30 is entered into on or after July 1, 2024, (B) does not require the service  
31 provider that is a party to such agreement to perform any part of any  
32 service pursuant to such agreement within the one-year period  
33 immediately following the date on which the parties to such agreement  
34 entered into such agreement, and (C) (i) purports to run with the land  
35 or bind future owners of interests in the residential real property that is  
36 the subject of such agreement, (ii) allows for any assignment of any right  
37 to provide any service under such agreement without first providing  
38 notice to, and obtaining consent from, the owner of the residential real  
39 property that is the subject of such agreement, or (iii) purports to create  
40 any lien or encumbrance upon, or other security interest in, the  
41 residential real property that is the subject of such agreement.

42 Sec. 3. (NEW) (*Effective July 1, 2024*) (a) No service provider shall enter  
43 into any unfair service agreement with any person who holds any  
44 interest in residential real property.

45 (b) No unfair service agreement shall be enforceable.

46 (c) A violation of subsection (a) of this section shall be deemed an  
47 unfair or deceptive trade practice under subsection (a) of section 42-110b  
48 of the general statutes.

49 Sec. 4. (NEW) (*Effective July 1, 2024*) No person shall record, or cause  
50 to be recorded, any unfair service agreement or any notice or  
51 memorandum thereof. If any such agreement, notice or memorandum  
52 is recorded, such agreement, notice or memorandum shall not be  
53 deemed to provide actual or constructive notice to an otherwise bona  
54 fide purchaser or creditor of the residential real property that is the  
55 subject of such agreement. Notwithstanding the provisions of section 7-  
56 24 of the general statutes, a town clerk may refuse to receive any unfair  
57 service agreement, or any notice or memorandum thereof, for recording.

58 Sec. 5. (NEW) (*Effective July 1, 2024*) (a) If any unfair service  
59 agreement, or any notice or memorandum thereof, is recorded, any  
60 person with an interest in the residential real property that is the subject  
61 of such agreement or the Attorney General may apply to the Superior  
62 Court for an order declaring such agreement to be unenforceable. Upon  
63 presentment of such order to the town clerk of the town in which such  
64 agreement, notice or memorandum is recorded, the recording of such  
65 agreement, notice or memorandum shall be discharged.

66 (b) If any unfair service agreement, or any notice or memorandum  
67 thereof, is recorded, any person with an interest in the residential real  
68 property that is the subject of such agreement may recover such actual  
69 damages, costs and attorney's fees as may be proven against the service  
70 provider that recorded such agreement or caused such agreement to be  
71 recorded.

72 Sec. 6. (NEW) (*Effective July 1, 2024*) (a) Not later than July 31, 2024,  
73 each service provider that entered into a service agreement on or before  
74 June 30, 2024, shall record a notice of such service agreement with the  
75 town clerk of the town in which the residential real property that is the  
76 subject of such service agreement is located.

77 (b) Each notice recorded pursuant to subsection (a) of this section  
78 shall include (1) the title "Notice of Service Agreement" printed in not  
79 less than fourteen-point bold type, (2) a legal description of the  
80 residential real property that is the subject of the service agreement, (3)  
81 the amount of the fee specified in the service agreement or the method  
82 by which such fee shall be calculated, (4) the date or circumstances  
83 under which the obligation set forth in the service agreement shall  
84 expire, (5) the name, address and telephone number of the service  
85 provider, and (6) if the service provider is (A) an individual, the  
86 notarized signature of the individual, or (B) an entity, the notarized  
87 signature of an authorized officer or employee of the entity.

88 (c) If a service provider fails to record the notice required under  
89 subsections (a) and (b) of this section on or before July 31, 2024, the  
90 service agreement shall be void and unenforceable and any interest in  
91 the residential real property that is the subject of such service agreement  
92 may be conveyed free and clear of such service agreement.

93 Sec. 7. (NEW) (*Effective July 1, 2024*) No provision of sections 3 to 6,  
94 inclusive, of this act shall be construed to:

95 (1) Apply to any (A) home warranty or similar product that covers  
96 the cost of maintaining any major home system, including, but not  
97 limited to, the cost of any electrical, plumbing or heating, ventilation  
98 and air conditioning work, for a fixed period, (B) insurance contract, (C)  
99 option or right of first refusal to purchase residential real property, (D)  
100 declaration, as defined in section 47-202 of the general statutes, (E)  
101 maintenance or repair agreement entered into by an association, as  
102 defined in section 47-202 of the general statutes, (F) mortgage loan or  
103 any commitment to make or receive any such loan, (G) security  
104 agreement (i) relating to any sale or rental of any personal property or  
105 fixture, and (ii) governed by the Uniform Commercial Code, or (H)  
106 cable, electrical, sewer, telephone, water or other regulated utility  
107 service provider; or

108 (2) Impair the rights granted by any mechanic's lien placed upon any  
109 residential real property pursuant to chapter 847 of the general statutes.

110 Sec. 8. Section 20-417a of the general statutes is repealed and the  
111 following is substituted in lieu thereof (*Effective from passage*):

112 As used in this section and sections 20-417b to 20-417j, inclusive:

113 (1) "Certificate" means a certificate of registration issued under  
114 section 20-417b;

115 (2) "Commissioner" means the Commissioner of Consumer  
116 Protection or any person designated by the commissioner to administer  
117 and enforce this section and sections 20-417b to 20-417j, inclusive;

118 (3) "Completion" means the stage of construction of a new home in  
119 which the new home construction contractor is in receipt of the  
120 certificate of occupancy for such new home issued by the municipality  
121 in which such new home is constructed;

122 (4) "Consumer" means the buyer or prospective buyer, or the buyer's  
123 or prospective buyer's heirs or designated representatives, of any new  
124 home or the owner of property on which a new home is being or will be  
125 constructed regardless of whether such owner obtains a building permit  
126 as the owner of the premises affected pursuant to section 29-263;

127 ~~[(3)]~~ (5) "Contract" means any agreement between a new home  
128 construction contractor and a consumer for the construction or sale of a  
129 new home or any portion of a new home prior to occupancy;

130 ~~[(4)]~~ (6) "Engage in the business" means that the person engages in  
131 the business for the purpose of compensation or profit;

132 (7) "New home" means any newly constructed (A) single-family  
133 dwelling unit, (B) dwelling consisting of not more than two units, or (C)  
134 unit, common element or limited common element in a condominium,  
135 as defined in section 47-68a, or in a common interest community, as  
136 defined in section 47-202;

137 ~~[(5)]~~ (8) "New home construction contractor" means any person who  
138 contracts with a consumer to construct or sell a new home or any portion

139 of a new home prior to occupancy;

140 [(6) "New home" means any newly constructed (A) single-family  
141 dwelling unit, (B) dwelling consisting of not more than two units, or (C)  
142 unit, common element or limited common element in a condominium,  
143 as defined in section 47-68a, or in a common interest community, as  
144 defined in section 47-202;]

145 [(7)] (9) "Person" means one or more individuals, partnerships,  
146 associations, corporations, limited liability companies, business trusts,  
147 legal representatives or any organized group of persons; and

148 [(8) "Consumer" means the buyer or prospective buyer, or the buyer's  
149 or prospective buyer's heirs or designated representatives, of any new  
150 home or the owner of property on which a new home is being or will be  
151 constructed regardless of whether such owner obtains a building permit  
152 as the owner of the premises affected pursuant to section 29-263; and

153 (9) "Completion" means the stage of construction of a new home in  
154 which the new home construction contractor is in receipt of the  
155 certificate of occupancy for such new home issued by the municipality  
156 in which such new home is constructed.]

157 (10) "Proprietor" means an individual who (A) has an ownership  
158 interest in a business entity that holds or has held a certificate issued  
159 under section 20-417b, and (B) has been found by a court of competent  
160 jurisdiction to have violated any provision of this chapter related to the  
161 conduct of a business entity holding a certificate or that has held a  
162 certificate issued under section 20-417b within the two years of the  
163 effective date of entering into a contract with a consumer harmed by the  
164 actions of such business entity or the owner of such business entity.

165 Sec. 9. Section 20-417i of the general statutes is repealed and the  
166 following is substituted in lieu thereof (*Effective from passage*):

167 (a) The commissioner shall establish and maintain the New Home  
168 Construction Guaranty Fund.

169 (b) Each person who receives a certificate pursuant to sections 20-  
170 417a to 20-417j, inclusive, as amended by this act, shall pay a fee of two  
171 hundred forty dollars annually to the New Home Construction  
172 Guaranty Fund. Such fees shall be payable with the fee for an  
173 application for a certificate or renewal of a certificate.

174 (c) (1) For fiscal years commencing on or after July 1, 2003, payments  
175 received under subsection (b) of this section shall be credited to the New  
176 Home Construction Guaranty Fund until the balance in the fund equals  
177 seven hundred fifty thousand dollars. Annually, if the balance in the  
178 fund exceeds seven hundred fifty thousand dollars, the first three  
179 hundred thousand dollars of the excess shall be deposited in the  
180 consumer protection enforcement account established in section 21a-8a.  
181 On June 1, 2004, and each June first thereafter, if the balance in the fund  
182 exceeds seven hundred fifty thousand dollars, the excess shall be  
183 deposited in the General Fund.

184 (2) Any money in the New Home Construction Guaranty Fund may  
185 be invested or reinvested in the same manner as funds of the state  
186 employees retirement system and the interest arising from such  
187 investments shall be credited to the fund.

188 (d) Whenever a consumer obtains a binding arbitration decision, a  
189 court judgment, order or decree against or regarding any new home  
190 construction contractor holding a certificate or who has held a certificate  
191 under sections 20-417a to 20-417j, inclusive, as amended by this act, or  
192 against a proprietor, within two years of the date [of entering] such  
193 contractor entered into the contract with the consumer, for loss or  
194 damages sustained by reason of any violation of the provisions of  
195 sections 20-417a to 20-417j, inclusive, as amended by this act, by a person  
196 holding a certificate under said sections, such consumer may, upon the  
197 final determination of, or expiration of time for taking, an appeal in  
198 connection with any such decision, judgment, order or decree, apply to  
199 the commissioner for an order directing payment out of the New Home  
200 Construction Guaranty Fund of the amount, not exceeding thirty  
201 thousand dollars, unpaid upon the decision, judgment, order or decree

202 for actual damages and costs taxed by the court against such contractor  
203 or proprietor, exclusive of punitive damages. The application shall be  
204 made on forms provided by the commissioner and shall be  
205 accompanied by a copy of the decision, court judgment, order or decree  
206 obtained against the new home construction contractor or proprietor  
207 together with a statement signed and sworn to by the consumer,  
208 affirming that the consumer has: (1) Complied with all the requirements  
209 of this subsection; (2) obtained a decision, judgment, order or decree  
210 stating the amount of the decision, judgment, order or decree and the  
211 amount owing on the decision, judgment, order or decree at the date of  
212 application; and (3) made a good faith effort to satisfy any such decision,  
213 judgment, order or decree in accordance with the provisions of chapter  
214 906, which effort may include causing to be issued a writ of execution  
215 upon such decision, judgment, order or decree, [but] provided the  
216 officer executing the same has made a return showing that no bank  
217 accounts or personal property of such contractor liable to be levied upon  
218 in satisfaction of the decision, judgment, order or decree could be found,  
219 or that the amount realized on the sale of them or of such of them as  
220 were found, under the execution, was insufficient to satisfy the actual  
221 damage portion of the decision, judgment, order or decree or stating the  
222 amount realized and the balance remaining due on the decision,  
223 judgment, order or decree after application on the decision, judgment,  
224 order or decree of the amount realized, except that the requirements of  
225 this subdivision shall not apply to a judgment, order or decree obtained  
226 by the consumer in small claims court. A true and attested copy of such  
227 executing officer's return, when required, shall be attached to such  
228 application. Whenever the consumer satisfies the commissioner or the  
229 commissioner's designee that it is not practicable to comply with the  
230 requirements of subdivision (3) of this subsection and that the consumer  
231 has taken all reasonable steps to collect the amount of the decision,  
232 judgment, order or decree or the unsatisfied part of the decision,  
233 judgment, order or decree and has been unable to collect the same, the  
234 commissioner or the commissioner's designee may, in the  
235 commissioner's or the commissioner's designee's discretion, dispense  
236 with the necessity for complying with such requirement. No application



237 for an order directing payment out of the fund shall be made later than  
238 two years from the final determination of, or expiration of time for  
239 taking, an appeal of such decision, court judgment, order or decree and  
240 no such application shall be for an amount in excess of thirty thousand  
241 dollars.

242 (e) Upon receipt of such application together with such copy of the  
243 decision, court judgment, order or decree, statement and, except as  
244 otherwise provided in subsection (d) of this section, true and attested  
245 copy of the executing officer's return, the commissioner or the  
246 commissioner's designee shall inspect such documents for their veracity  
247 and upon a determination that such documents are complete and  
248 authentic and that the consumer has not been paid, the commissioner  
249 shall order payment out of the New Home Construction Guaranty Fund  
250 of the amount not exceeding thirty thousand dollars unpaid upon the  
251 decision, judgment, order or decree for actual damages and costs taxed  
252 by the court against the contractor or proprietor, exclusive of punitive  
253 damages.

254 (f) ~~[Beginning] (1) During the period beginning on October 1, 2000,~~  
255 ~~and ending on the date immediately preceding the effective date of this~~  
256 ~~section,~~ whenever a consumer is awarded an order of restitution against  
257 any new home construction contractor for loss or damages sustained as  
258 a result of any violation of the provisions of sections 20-417a to 20-417j,  
259 inclusive, ~~as amended by this act,~~ by a person holding a certificate or  
260 who has held a certificate under said sections within two years of the  
261 date of entering into the contract with the consumer, in [(1)] (A) a  
262 proceeding brought by the commissioner pursuant to subsection [(h)] (i)  
263 of this section or subsection (d) of section 42-110d, [(2)] (B) a proceeding  
264 brought by the Attorney General pursuant to subsection (a) of section  
265 42-110m, ~~as amended by this act,~~ or subsection (d) of section 42-110d, or  
266 [(3)] (C) a criminal proceeding pursuant to section 20-417e, such  
267 consumer may, upon the final determination of, or expiration of time for  
268 taking, an appeal in connection with any such order of restitution, apply  
269 to the commissioner for an order directing payment out of the New  
270 Home Construction Guaranty Fund of the amount not exceeding thirty

271 thousand dollars unpaid upon the order of restitution. The  
272 commissioner may issue such order upon a determination that the  
273 consumer has not been paid.

274 (2) Beginning on the effective date of this section, whenever a  
275 consumer is awarded an order of restitution against any new home  
276 construction contractor or proprietor for loss or damages sustained as a  
277 result of any violation of the provisions of sections 20-417a to 20-417j,  
278 inclusive, as amended by this act, by a person holding a certificate or  
279 who has held a certificate under said sections within two years of the  
280 date such contractor entered into the contract with the consumer, in (A)  
281 a proceeding brought by the commissioner pursuant to subsection (i) of  
282 this section or subsection (d) of section 42-110d, (B) a proceeding  
283 brought by the Attorney General pursuant to subsection (a) of section  
284 42-110m, as amended by this act, or subsection (d) of section 42-110d, or  
285 (C) a criminal proceeding pursuant to section 20-417e, such consumer  
286 may, upon the final determination of, or expiration of time for taking,  
287 an appeal in connection with any such order of restitution, apply to the  
288 commissioner for an order directing payment out of the New Home  
289 Construction Guaranty Fund of the amount not exceeding thirty  
290 thousand dollars unpaid upon the order of restitution. The  
291 commissioner may issue such order upon a determination that the  
292 consumer has not been paid.

293 (g) Whenever the commissioner orders payment to a consumer out  
294 of the New Home Construction Guaranty Fund based upon a decision,  
295 judgment, order or decree of restitution, the contractor and proprietor  
296 shall be liable for the resulting debt to the New Home Construction  
297 Guaranty Fund.

298 ~~[(g)]~~ (h) Before the commissioner may issue any order directing  
299 payment out of the New Home Construction Guaranty Fund to a  
300 consumer pursuant to subsection (e) or (f) of this section, the  
301 commissioner shall first notify the new home construction contractor of  
302 the consumer's application for an order directing payment out of the  
303 fund and of the new home construction contractor's right to a hearing

304 to contest the disbursement in the event that such contractor or  
305 proprietor has already paid the consumer. Such notice shall be given to  
306 the new home construction contractor not later than fifteen days after  
307 receipt by the commissioner of the consumer's application for an order  
308 directing payment out of the fund. If the new home construction  
309 contractor requests a hearing, in writing, by certified mail not later than  
310 fifteen days after receiving the notice from the commissioner, the  
311 commissioner shall grant such request and shall conduct a hearing in  
312 accordance with the provisions of chapter 54. If the commissioner does  
313 not receive a written request for a hearing by certified mail from the new  
314 home construction contractor on or before the fifteenth day from the  
315 contractor's receipt of such notice, the commissioner shall conclude that  
316 the consumer has not been paid, and the commissioner shall issue an  
317 order directing payment out of the fund for the amount not exceeding  
318 thirty thousand dollars unpaid upon the judgment, order or decree for  
319 actual damages and costs taxed by the court against the new home  
320 construction contractor or proprietor, exclusive of punitive damages, or  
321 for the amount not exceeding thirty thousand dollars unpaid upon the  
322 order of restitution.

323 [(h)] (i) The commissioner or the commissioner's designee may  
324 proceed against any new home construction contractor holding a  
325 certificate or who has held a certificate under sections 20-417a to 20-417j,  
326 inclusive, as amended by this act, within two years of the effective date  
327 of entering into the contract with the consumer, for an order of  
328 restitution arising from loss or damages sustained by any consumer as  
329 a result of any violation of the provisions of said sections 20-417a to 20-  
330 417j, inclusive, by the contractor or proprietor. Any such proceeding  
331 shall be held in accordance with the provisions of chapter 54. In the  
332 course of such proceeding, the commissioner or the commissioner's  
333 designee shall decide whether to (1) exercise the powers specified in  
334 section 20-417c, (2) order restitution arising from loss or damages  
335 sustained by any consumer as a result of any violation of the provisions  
336 of sections 20-417a to 20-417j, inclusive, as amended by this act, and (3)  
337 order payment out of the New Home Construction Guaranty Fund.  
338 Notwithstanding the provisions of chapter 54, the decision of the

339 commissioner or the commissioner's designee shall be final with respect  
340 to any proceeding to order payment out of the fund and the  
341 commissioner and the commissioner's designee shall not be subject to  
342 the requirements of chapter 54 as such requirements relate to an appeal  
343 from any such decision. The commissioner or the commissioner's  
344 designee may hear complaints of all consumers submitting claims  
345 against a single new home construction contractor in one proceeding.

346 [(i)] (j) No application for an order directing payment out of the New  
347 Home Construction Guaranty Fund shall be made later than two years  
348 from the final determination of, or expiration of time for, an appeal in  
349 connection with any judgment, order or decree of restitution, and no  
350 such application shall be for an amount in excess of thirty thousand  
351 dollars.

352 [(j)] (k) In order to preserve the integrity of the New Home  
353 Construction Guaranty Fund, the commissioner, in the commissioner's  
354 sole discretion, may order payment out of the fund of an amount less  
355 than the actual loss or damages incurred by the consumer or less than  
356 the order of restitution awarded by the commissioner or the Superior  
357 Court. In no event shall any payment out of the fund be in excess of  
358 thirty thousand dollars for any single claim by a consumer.

359 [(k)] (l) If the money deposited in the New Home Construction  
360 Guaranty Fund is insufficient to satisfy any duly authorized claim or  
361 portion of a claim, the commissioner shall, when sufficient money has  
362 been deposited in the fund, satisfy such unpaid claims or portions of  
363 claims not exceeding thirty thousand dollars, in the order that such  
364 claims or portions of claims were originally determined.

365 [(l)] (m) Whenever the commissioner has caused any sum to be paid  
366 from the New Home Construction Guaranty Fund to a consumer, the  
367 commissioner shall be subrogated to all of the rights of the consumer up  
368 to the amount paid plus reasonable interest, and prior to receipt of any  
369 payment from the fund, the consumer shall assign all of the consumer's  
370 right, title and interest in the claim up to such amount to the  
371 commissioner, and any amount and interest recovered by the

372 commissioner on the claim shall be deposited in the fund.

373 [(m)] (n) If the commissioner orders the payment of any amount as a  
374 result of a guaranty fund claim against a new home construction  
375 contractor or proprietor, the commissioner shall determine if such  
376 contractor is possessed of assets liable to be sold or applied in  
377 satisfaction of the claim on the New Home Construction Guaranty  
378 Fund. If the commissioner discovers any such assets, the commissioner  
379 may request that the Attorney General take any action necessary for the  
380 reimbursement of the fund.

381 [(n)] (o) If the commissioner orders the payment of an amount as a  
382 result of a guaranty fund claim against a new home construction  
383 contractor, the commissioner may, after notice and hearing in  
384 accordance with the provisions of chapter 54, revoke the certificate of  
385 such contractor and such contractor shall not be eligible to receive a new  
386 or renewed certificate until such contractor has repaid such amount in  
387 full, plus interest from the time such payment is made from the New  
388 Home Construction Guaranty Fund, at a rate to be in accordance with  
389 section 37-3b, except that the commissioner may, in the commissioner's  
390 sole discretion, permit a new home construction contractor to receive a  
391 new or renewed certificate after such contractor has entered into an  
392 agreement with the commissioner whereby such contractor agrees to  
393 repay the fund in full in the form of periodic payments over a set period  
394 of time. Any such agreement shall include a provision providing for the  
395 summary suspension of any and all certificates held by the new home  
396 construction contractor if payment is not made in accordance with the  
397 terms of the agreement.

398 Sec. 10. Section 42-110j of the general statutes is repealed and the  
399 following is substituted in lieu thereof (*Effective from passage*):

400 In the administration of this chapter, the commissioner may accept  
401 an assurance of voluntary compliance with respect to any method, act  
402 or practice deemed in violation of this chapter from any person alleged  
403 to be engaged or to have been engaged in such method, act or practice.  
404 Such assurance may include an amount as restitution to aggrieved

405 persons and for investigative costs. No such assurance of voluntary  
406 compliance shall be considered an admission of violation for any  
407 purpose. Matters thus closed may at any time be reopened by the  
408 commissioner for further proceedings in the public interest. In the event  
409 of any violation of the terms of an assurance of voluntary compliance  
410 accepted under this section, the commissioner may proceed as provided  
411 in sections 42-110d and 42-110e or may request that the Attorney  
412 General apply in the name of the state to the Superior Court for relief  
413 from such violation consistent with section 42-110m, as amended by this  
414 act.

415 Sec. 11. Subsection (a) of section 42-110m of the general statutes is  
416 repealed and the following is substituted in lieu thereof (*Effective from*  
417 *passage*):

418 (a) Whenever the commissioner has reason to believe that any person  
419 has been engaged or is engaged in an alleged violation of any provision  
420 of this chapter said commissioner may proceed as provided in sections  
421 42-110d and 42-110e or may request the Attorney General to apply in  
422 the name of the state of Connecticut to the Superior Court for an order  
423 temporarily or permanently restraining and enjoining the continuance  
424 of such act or acts or for an order directing restitution and the  
425 appointment of a receiver in appropriate instances, or both. Proof of  
426 public interest or public injury shall not be required in any action  
427 brought pursuant to section 42-110d, section 42-110e or this section.  
428 Such action may include an application to enforce any term of an  
429 assurance of voluntary compliance accepted under section 42-110j, as  
430 amended by this act. The court may award the relief applied for or so  
431 much as it may deem proper including reasonable attorney's fees,  
432 accounting and such other relief as may be granted in equity. In such  
433 action the commissioner shall be responsible for all necessary  
434 investigative support.

435 Sec. 12. Subsection (b) of section 42-110o of the general statutes is  
436 repealed and the following is substituted in lieu thereof (*Effective from*  
437 *passage*):

438 (b) In any action brought under section 42-110m, as amended by this  
 439 act, if the court finds that a person is wilfully using or has wilfully used  
 440 a method, act or practice prohibited by section 42-110b, the Attorney  
 441 General, upon petition to the court, may recover, on behalf of the state,  
 442 a civil penalty of not more than five thousand dollars for each violation.  
 443 For purposes of this subsection, a wilful violation occurs when: [the] (1)  
 444 The party committing the violation knew or should have known that his  
 445 conduct was a violation of section 42-110b; or (2) a person violates the  
 446 terms of an assurance of voluntary compliance accepted under section  
 447 42-110j, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	New section
Sec. 2	<i>July 1, 2024</i>	New section
Sec. 3	<i>July 1, 2024</i>	New section
Sec. 4	<i>July 1, 2024</i>	New section
Sec. 5	<i>July 1, 2024</i>	New section
Sec. 6	<i>July 1, 2024</i>	New section
Sec. 7	<i>July 1, 2024</i>	New section
Sec. 8	<i>from passage</i>	20-417a
Sec. 9	<i>from passage</i>	20-417i
Sec. 10	<i>from passage</i>	42-110j
Sec. 11	<i>from passage</i>	42-110m(a)
Sec. 12	<i>from passage</i>	42-110o(b)

**Statement of Legislative Commissioners:**

In Section 4, "constructive notice against" was changed to "constructive notice to" for consistency; in Sections 8(10)(A) and 8(10)(B), "certificate under this chapter" was changed to "certificate issued under section 20-417b" for accuracy; in Section 8(10)(B), "an owner harmed" was changed to "a consumer harmed" for consistency; and in Section 9(d)(3), "decree but" was changed to "decree [but] provided" for consistency with standard drafting conventions.

**GL**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Consumer Protection, Dept.	New Home Construction Guaranty Fund - Potential Cost	See Below	See Below
Consumer Protection, Dept.	New Home Construction Guaranty Fund - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill expands consumers' eligibility to make claims from the New Home Construction Guaranty Fund<sup>1</sup> resulting in a potential cost to the fund to the extent this results in additional restitution payments. In FY 23 there were two restitution claims paid from the fund totaling \$60,000.

The bill makes contractors and proprietors liable for the restitution payments made to consumers resulting in a potential revenue gain to the New Home Construction Guaranty Fund to the extent violations occur and the contractors and proprietors repay the Fund.

The bill also makes various changes under the Connecticut Unfair

<sup>1</sup>The New Home Construction Guaranty Fund can reimburse consumers who are unable to collect for losses resulting from work performed by a registered new home builder. Homeowners may be eligible to receive up to \$30,000 from the fund if certain criteria are met.



Trade Practices Act (CUTPA) resulting in no fiscal impact to the Department of Consumer Protection (DCP) and the Office of the Attorney General (OAG) because they have the expertise to meet the requirements of the bill.<sup>2</sup>

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of claims paid by the Fund.

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<sup>2</sup> DCP and OAG investigate and enforce CUTPA violations in the state.

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**OLR Bill Analysis****sSB 201****AN ACT CONCERNING THE ATTORNEY GENERAL'S RECOMMENDATIONS REGARDING PRICE DISCLOSURE, SERVICE AGREEMENTS, THE NEW HOME CONSTRUCTION GUARANTY FUND AND THE CONNECTICUT UNFAIR TRADE PRACTICES ACT.****SUMMARY**

This bill requires anyone selling goods or services in the state to disclose their total price, including fees and charges other than taxes, and makes violations an unfair or deceptive trade practice under the Connecticut Unfair Trade Practices Act (CUTPA).

The bill prohibits certain service providers from entering into “unfair service agreements” with residential property owners, makes these agreements unenforceable, and makes violations of this prohibition an unfair or deceptive trade practice under CUTPA. The bill prohibits these agreements from being recorded in the land records and establishes certain legal remedies for property owners if they are recorded. It also requires service providers that previously entered into service agreements to record a new notice on the land records that meets specified requirements.

The bill expands eligibility for the New Home Construction Guaranty Fund to allow consumers to recuperate money from the fund for judgments awarded against certain individuals with an ownership interest in a new home construction company who violated certain laws. It also makes these individuals and contractors liable for consumer payouts from the fund that result from a judgment against them.

The bill also authorizes the Department of Consumer Protection (DCP) to investigate violations of and enforce the terms of an “assurance

of voluntary compliance” under CUTPA and makes these violations a willful CUTPA violation. It also allows these assurances to require the payment of investigative costs.

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: Upon passage, except the price disclosure provision is effective October 1, 2024, and the unfair service agreements provisions are effective July 1, 2024.

## **§ 1 — TOTAL PRICE DISCLOSURE**

The bill requires people and businesses advertising, displaying, or offering any good or service for sale in the state to clearly and conspicuously disclose the total price. This includes all mandatory fees and charges except taxes imposed by a government entity.

## **§§ 2-7 — UNFAIR SERVICE AGREEMENTS**

### ***Prohibition on Entering Into Unfair Service Agreements (§§ 2 & 3)***

The bill prohibits service providers from entering into “unfair service agreements” with persons (i.e., people, government agencies, and legal or commercial entities) who hold an interest in residential property with one to four units (i.e., residential property). Under the bill, a “service provider” is a person providing, or agreeing to provide, a service to another person in the state related to residential property maintenance, purchases, or sales. A “service agreement” is a contract in which a service provider agrees to provide these services (see § 7 below).

Under the bill, a service agreement is unfair if on or after July 1, 2024, the agreement:

1. does not require the service provider to perform any tasks within one year of entering into the agreement;
2. claims to run with the land or bind the property’s future owners;
3. allows the service provider to assign the rights to provide services under the agreement without prior notice to or consent from the property owner; or

4. claims to create a lien, encumbrance, or security interest in the property.

The bill makes unfair service agreements unenforceable.

***Unfair Service Agreements Recorded in the Land Records (§§ 4 & 5)***

The bill (1) prohibits persons from taking action to record unfair service agreements or any notices or memorandums about these agreements in the land records and (2) allows town clerks to refuse to receive these documents for recording.

If an unfair service agreement, notice, or memorandum is recorded:

1. it is not considered to give actual or constructive notice to the applicable property's purchaser or creditor;
2. any person with an interest in the property or the attorney general can apply to the Superior Court for an order declaring the agreement unenforceable; and
3. any person with an interest in the property may recover the actual damages, costs, and attorney's fees that may be proven against the service provider that recorded the agreement.

Under the bill, if a town clerk is presented with a court order declaring the agreement, notice, or memorandum unenforceable, he or she must discharge the document.

***Requirement to Rerecord Prior Service Agreements (§ 6)***

By July 31, 2024, service providers that entered into a service agreement on or before June 30, 2024, must record a notice of the agreement with the town clerk of the town where the residential property is located. These notices must include:

1. the title "Notice of Service Agreement" printed in at least 14-point bold type;
2. a legal description of the residential property subject to the

- agreement;
3. the fee amount, or calculation methodology, specified in the agreement;
  4. the agreement's expiration date or circumstances under which it will expire; and
  5. the service provider's name, address, telephone number, and notarized signature (or that of its authorized officer or employee, as applicable).

If a service provider fails to timely record this notice, the service agreement is void and unenforceable and any interest in the applicable property may be conveyed free and clear of the agreement.

***Excluded Agreements (§ 7)***

The bill's prohibition on unfair service agreements and its related provisions do not apply to the following:

1. home warranties or similar products covering the maintenance cost of any major home system for a fixed period (e.g., electrical, plumbing, heating, ventilation, and air conditioning);
2. insurance contracts;
3. options or rights of first refusal to purchase residential property;
4. instruments that create a common interest community, and any amendments to those instruments;
5. maintenance or repair agreements entered into by a common interest community unit owners' association;
6. mortgage loans or commitments to make or receive mortgage loans;
7. security agreements relating to the sale or rental of any personal property or fixture governed by the Uniform Commercial Code;

and

8. regulated utility service providers (e.g., cable, electrical, sewer, telephone, and water).

### ***Mechanic's Liens (§ 7)***

Under the bill, the unfair service agreement prohibition and related provisions do not impair the rights granted by any mechanic's lien that is placed on residential real estate under the law.

### **§§ 8 & 9 — NEW HOME CONSTRUCTION GUARANTY FUND**

Under current law, a consumer who is awarded a judgment (e.g., a binding arbitration decision, court judgment, order, or decree) against a registered new home construction contractor but is unable to satisfy the judgment (i.e., get payment from the contractor) may apply to DCP to instead recuperate the judgment amount (up to \$30,000) from the New Home Construction Guaranty Fund. (New home construction contractors annually pay into this fund when renewing their registrations.) Under the bill, consumers may also recuperate money from the fund if the judgment was awarded against certain individuals with an ownership interest in a new home construction company who have been found by a court to have violated certain laws (i.e., "proprietors").

More specifically, to qualify as a "proprietor," the person must meet two criteria. First, he or she must have an ownership interest in a new home construction company that is currently, or was previously, registered by DCP. Second, he or she must have been found by a court to have violated the state's new home construction contractor laws for the company's conduct. The company must either be currently registered as a new home construction company or have been registered within two years before it entered into the contract with the consumer harmed by the company's or owner's actions.

The bill makes consumers awarded a judgment against a proprietor eligible for funds from the New Home Construction Guaranty Fund subject to the same conditions and requirements the law has for

consumers with a judgment against a contractor. For example, among other things, the consumer:

1. must apply in writing to DCP within two years of the judgment being finalized;
2. is eligible to receive up to \$30,000 from the fund for the actual damages and costs he or she was awarded by the court (excluding punitive damages) and minus any amount already recovered; and
3. must affirm that he or she has made a good faith effort to satisfy the judgment by following statutory post-judgment procedures.

Additionally, the bill makes new home construction contractors and proprietors liable for consumer payouts from the New Home Construction Guaranty Fund that result from a judgment against them.

#### **§§ 10, 11 & 12 — ASSURANCES OF VOLUNTARY COMPLIANCE UNDER CUTPA**

Existing law allows the DCP commissioner to accept an assurance of voluntary compliance from anyone alleged to have violated CUTPA. These assurances generally specify the terms by which the person (usually a company) will come into compliance with CUTPA. By law, they are not admissions of violations and an investigation closed by an assurance of voluntary compliance may be reopened at any time.

The bill authorizes the DCP commissioner to investigate violations of and enforce the terms of an assurance of voluntary compliance and ask the attorney general to apply to the Superior Court for relief in the same way as the law allows for CUTPA violations. The bill also makes these violations a willful violation under CUTPA. In doing so, it allows the attorney general to ask the court to impose a civil penalty of up to \$5,000 for each violation.

Lastly, the bill allows the assurances to require the person to pay for investigative costs. Existing law allows them to include restitution costs.

## BACKGROUND

### *Related Bills*

sSB 3, favorably reported by the General Law Committee, generally prohibits businesses that offer to sell, lease, or provide consumer goods or services from advertising, displaying, or offering the good or service at a price unless it includes any charges and fees other than taxes.

SB 15 (File 67), favorably reported by the General Law Committee, prohibits individuals and legal entities from advertising, displaying, or offering pricing for (1) event tickets and (2) consumer goods or services on food delivery platforms, lodging platforms, or primary or secondary ticket platforms unless they disclose the total price, including all mandatory fees or charges, other than taxes.

sHB 5203, favorably reported by the Transportation Committee, requires auto dealers to include in a vehicle's price all charges and fees that a buyer must pay to purchase the vehicle, except that dealers may exclude taxes and other government-imposed charges.

sHB 5236 (File 103), favorably reported by the General Law Committee, allows the DCP commissioner to impose a civil penalty of up to \$5,000 for CUTPA violations, after an administrative hearing.

sHB 5272, favorably reported by the Planning and Development Committee, (1) expands eligibility for the New Home Construction Guaranty Fund to allow consumers to recuperate money from the fund for judgments awarded against certain individuals with financial or operational control of a new home construction company; (2) increases, from \$30,000 to \$50,000, the maximum amount consumers may recuperate from the fund; and (3) lowers, from \$750,000 to \$650,000, the maximum balance the fund may carry.

## COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 22 Nay 0 (03/12/2024)