



Senate

General Assembly

File No. 14

January Session, 2021

Substitute Senate Bill No. 266

Senate, March 4, 2021

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 NEW HOME CONSTRUCTION CONTRACTORS, HOME IMPROVEMENT CONTRACTORS, TRADE APPRENTICESHIPS AND LOCKSMITHS.

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

1 Section 1. Section 20-417b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) No person shall engage in the business of new home construction
4 or hold himself or herself out as a new home construction contractor
5 unless such person has been issued a certificate of registration by the
6 commissioner in accordance with the provisions of sections 20-417a to
7 20-417j, inclusive. No new home construction contractor shall be
8 relieved of responsibility for the conduct and acts of its agents,
9 employees or officers by reason of such new home construction
10 contractor's compliance with the provisions of sections 20-417a to 20-
11 417j, inclusive.

12 (b) Any person seeking a certificate of registration shall apply to the

13 commissioner, [in writing] online, on a form provided by the
14 commissioner. The application shall include (1) the applicant's name,
15 business street address and business telephone number, (2) the identity
16 of the insurer that provides the applicant with insurance coverage for
17 liability, (3) if such applicant is required by any provision of the general
18 statutes to have workers' compensation coverage, the identity of the
19 insurer that provides the applicant with such workers' compensation
20 coverage, [and] (4) if such applicant is required by any provision of the
21 general statutes to have an agent for service of process, the name and
22 address of such agent, and (5) proof of general liability insurance
23 coverage in an amount not less than _____ dollars, demonstrated by
24 providing the policy number and business name of the insurance
25 provider. Each such application shall be accompanied by a fee of [two]
26 one hundred [forty] twenty dollars, except that no such application fee
27 shall be required if such person has paid the registration fee required
28 under section 20-421, as amended by this act, during any year in which
29 such person's registration as a new home construction contractor would
30 be valid.

31 (c) Certificates issued to new home construction contractors shall not
32 be transferable or assignable, except when the holder of a certificate,
33 who is engaged in the business, changes the name or form of such
34 business.

35 (d) All certificates issued under the provisions of sections 20-417a to
36 20-417j, inclusive, shall expire [biennially] annually. The fee for renewal
37 of a certificate shall be the same as the fee charged for an original
38 application, except that no renewal fee is due if a person seeking
39 renewal of a certificate has paid the registration fee under section 20-
40 427, as amended by this act, during any year in which such person's
41 registration as a new home construction contractor would be valid.

42 (e) All certificates issued under the provisions of this chapter shall
43 expire [biennially and may be renewed by the applicant not later than
44 six months after the expiration date of such certificate] annually on the
45 thirty-first day of March. The fee for renewal of a certificate shall be the

46 same as charged for the original application. [but shall be charged on a
47 pro rata basis, based upon the application date for such renewal.]

48 (f) Failure to receive a notice of expiration or a renewal application
49 shall not exempt a new home construction contractor from the
50 obligation to renew.

51 (g) The holder of a certificate of registration issued by the
52 commissioner in accordance with the provisions of sections 20-417a to
53 20-417j, inclusive, may opt to engage in home improvement, as defined
54 in section 20-419, as amended by this act. If a new home construction
55 contractor does opt to engage in such home improvement, such new
56 home construction contractor shall first notify the commissioner in
57 writing and shall pay to the Department of Consumer Protection all the
58 Home Improvement Guaranty Fund fees due pursuant to section 20-
59 432, as amended by this act.

60 Sec. 2. (NEW) (*Effective July 1, 2022*) (a) (1) A contract, as defined in
61 section 20-417a of the general statutes, shall not be valid or enforceable
62 against a consumer unless it: (A) Is in writing, (B) is signed by the new
63 home construction contractor and the consumer, (C) contains the entire
64 agreement between the new home construction contractor and the
65 consumer, (D) contains the date of the transaction, (E) contains the name
66 and address of the new home construction contractor and the
67 contractor's registration number, (F) contains a starting date and
68 completion date, (G) is entered into by a registered new home
69 construction contractor, and (H) includes a provision disclosing each
70 corporation, limited liability company, partnership, sole proprietorship
71 or other legal entity, which is or has been a new home construction
72 contractor pursuant to the provisions of chapter 399a of the general
73 statutes, in which the owner or owners of the new home construction
74 contractor are or have been a shareholder, member, partner or owner
75 during the previous five years.

76 (2) Each change in the terms and conditions of a contract, as defined
77 in section 20-417a of the general statutes, shall be in writing and shall be
78 signed by the new home construction contractor and the consumer,

79 except that the commissioner may, by regulation, dispense with the
80 necessity for complying with the provisions of this subdivision.

81 (b) The new home construction contractor shall provide and deliver
82 to the consumer, without charge, a completed copy of the new home
83 construction contract at the time such contract is executed.

84 (c) The commissioner may, by regulation, require the inclusion of
85 additional contractual provisions for contracts, as defined in section 20-
86 417a of the general statutes.

87 (d) Nothing in this section shall preclude a new home construction
88 contractor who has complied with subparagraphs (A), (B), (F) and (G)
89 of subdivision (1) of subsection (a) of this section from the recovery of
90 payment for work performed based on the reasonable value of services
91 which were requested by the consumer, provided the court determines
92 that it would be inequitable to deny such recovery.

93 Sec. 3. Section 20-417i of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective July 1, 2022*):

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

97 (b) Each person who receives a certificate pursuant to sections 20-
98 417a to 20-417j, inclusive, shall pay a fee of [~~four~~] three hundred [~~eighty~~]
99 forty dollars [~~biennially~~] annually to the [~~fund~~] New Home
100 Construction Guaranty Fund. Such [~~fee~~] fees shall be payable with the
101 fee for an application for a certificate or renewal of a certificate.

102 (c) (1) For fiscal years commencing on or after July 1, 2003, payments
103 received under subsection (b) of this section shall be credited to the New
104 Home Construction Guaranty Fund until the balance in the fund equals
105 seven hundred fifty thousand dollars. Annually, if the balance in the
106 fund exceeds seven hundred fifty thousand dollars, the first three
107 hundred thousand dollars of the excess shall be deposited in the
108 consumer protection enforcement account established in section 21a-8a.
109 On June 1, 2004, and each June first thereafter, if the balance in the fund

110 exceeds seven hundred fifty thousand dollars, the excess shall be
111 deposited in the General Fund.

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

116 (d) [Beginning October 1, 2000, whenever] Whenever a consumer
117 obtains a binding arbitration decision, a court judgment, order or decree
118 against or regarding any new home construction contractor holding a
119 certificate or who has held a certificate under sections 20-417a to 20-417j,
120 inclusive, within [the past] two years of the date of entering into the
121 contract with the consumer, for loss or damages sustained by reason of
122 any violation of the provisions of sections 20-417a to 20-417j, inclusive,
123 by a person holding a certificate under said sections, such consumer
124 may, upon the final determination of, or expiration of time for taking,
125 an appeal in connection with any such decision, judgment, order or
126 decree, apply to the commissioner for an order directing payment out
127 of the New Home Construction Guaranty Fund of the amount, not
128 exceeding thirty thousand dollars, unpaid upon the decision, judgment,
129 order or decree for actual damages and costs taxed by the court against
130 such contractor, exclusive of punitive damages. The application shall be
131 made on forms provided by the commissioner and shall be
132 accompanied by a copy of the decision, court judgment, order or decree
133 obtained against the new home construction contractor together with a
134 [notarized affidavit,] statement signed and sworn to by the consumer,
135 affirming that the consumer has: (1) Complied with all the requirements
136 of this subsection; (2) obtained a decision, judgment, order or decree
137 stating the amount of the decision, judgment, order or decree and the
138 amount owing on the decision, judgment, order or decree at the date of
139 application; and (3) made a good faith effort to satisfy any such decision,
140 judgment, order or decree in accordance with the provisions of chapter
141 906 which effort may include causing to be issued a writ of execution
142 upon such decision, judgment, order or decree but the officer executing
143 the same has made a return showing that no bank accounts or personal

144 property of such contractor liable to be levied upon in satisfaction of the
145 decision, judgment, order or decree could be found, or that the amount
146 realized on the sale of them or of such of them as were found, under the
147 execution, was insufficient to satisfy the actual damage portion of the
148 decision, judgment, order or decree or stating the amount realized and
149 the balance remaining due on the decision, judgment, order or decree
150 after application on the decision, judgment, order or decree of the
151 amount realized, except that the requirements of this subdivision shall
152 not apply to a judgment, order or decree obtained by the consumer in
153 small claims court. A true and attested copy of such executing officer's
154 return, when required, shall be attached to such application, [and
155 affidavit.] Whenever the consumer satisfies the commissioner or the
156 commissioner's designee that it is not practicable to comply with the
157 requirements of subdivision (3) of this subsection and that the consumer
158 has taken all reasonable steps to collect the amount of the decision,
159 judgment, order or decree or the unsatisfied part of the decision,
160 judgment, order or decree and has been unable to collect the same, the
161 commissioner or the commissioner's designee may, in the
162 commissioner's or the commissioner's designee's discretion, dispense
163 with the necessity for complying with such requirement. No application
164 for an order directing payment out of the fund shall be made later than
165 two years from the final determination of, or expiration of time for
166 taking, an appeal of such decision, court judgment, order or decree and
167 no such application shall be for an amount in excess of thirty thousand
168 dollars.

169 (e) Upon receipt of such application together with such copy of the
170 decision, court judgment, order or decree, [notarized affidavit]
171 statement and, except as otherwise provided in subsection (d) of this
172 section, true and attested copy of the executing officer's return, the
173 commissioner or the commissioner's designee shall inspect such
174 documents for their veracity and upon a determination that such
175 documents are complete and authentic and that the consumer has not
176 been paid, the commissioner shall order payment out of the New Home
177 Construction Guaranty Fund of the amount not exceeding thirty
178 thousand dollars unpaid upon the decision, judgment, order or decree

179 for actual damages and costs taxed by the court against the contractor,
180 exclusive of punitive damages.

181 (f) Beginning October 1, 2000, whenever a consumer is awarded an
182 order of restitution against any new home construction contractor for
183 loss or damages sustained as a result of any violation of the provisions
184 of sections 20-417a to 20-417j, inclusive, by a person holding a certificate
185 or who has held a certificate under said sections within [the past] two
186 years of the date of entering into the contract with the consumer, in (1)
187 a proceeding brought by the commissioner pursuant to subsection (h)
188 of this section or subsection (d) of section 42-110d, (2) a proceeding
189 brought by the Attorney General pursuant to subsection (a) of section
190 42-110m or subsection (d) of section 42-110d, or (3) a criminal
191 proceeding pursuant to section 20-417e, such consumer may, upon the
192 final determination of, or expiration of time for taking, an appeal in
193 connection with any such order of restitution, apply to the
194 commissioner for an order directing payment out of the New Home
195 Construction Guaranty Fund of the amount not exceeding thirty
196 thousand dollars unpaid upon the order of restitution. The
197 commissioner may issue such order upon a determination that the
198 consumer has not been paid.

199 (g) Before the commissioner may issue any order directing payment
200 out of the New Home Construction Guaranty Fund to a consumer
201 pursuant to subsection (e) or (f) of this section, the commissioner shall
202 first notify the new home construction contractor of the consumer's
203 application for an order directing payment out of the fund and of the
204 new home construction contractor's right to a hearing to contest the
205 disbursement in the event that such contractor has already paid the
206 consumer. Such notice shall be given to the new home construction
207 contractor not later than fifteen days after receipt by the commissioner
208 of the consumer's application for an order directing payment out of the
209 fund. If the new home construction contractor requests a hearing, in
210 writing, by certified mail not later than fifteen days after receiving the
211 notice from the commissioner, the commissioner shall grant such
212 request and shall conduct a hearing in accordance with the provisions

213 of chapter 54. If the commissioner does not receive a written request for
214 a hearing by certified mail from the new home construction contractor
215 on or before the fifteenth day from the contractor's receipt of such notice,
216 the commissioner shall conclude that the consumer has not been paid,
217 and the commissioner shall issue an order directing payment out of the
218 fund for the amount not exceeding thirty thousand dollars unpaid upon
219 the judgment, order or decree for actual damages and costs taxed by the
220 court against the new home construction contractor, exclusive of
221 punitive damages, or for the amount not exceeding thirty thousand
222 dollars unpaid upon the order of restitution.

223 (h) The commissioner or the commissioner's designee may proceed
224 against any new home construction contractor holding a certificate or
225 who has held a certificate under sections 20-417a to 20-417j, inclusive,
226 within [the past] two years of the effective date of entering into the
227 contract with the consumer, for an order of restitution arising from loss
228 or damages sustained by any consumer as a result of any violation of
229 the provisions of said sections 20-417a to 20-417j, inclusive. Any such
230 proceeding shall be held in accordance with the provisions of chapter
231 54. In the course of such proceeding, the commissioner or the
232 commissioner's designee shall decide whether to (1) exercise the powers
233 specified in section 20-417c, as amended by this act, (2) order restitution
234 arising from loss or damages sustained by any consumer as a result of
235 any violation of the provisions of sections 20-417a to 20-417j, inclusive,
236 and (3) order payment out of the New Home Construction Guaranty
237 Fund. Notwithstanding the provisions of chapter 54, the decision of the
238 commissioner or the commissioner's designee shall be final with respect
239 to any proceeding to order payment out of the fund and the
240 commissioner and the commissioner's designee shall not be subject to
241 the requirements of chapter 54 as such requirements relate to an appeal
242 from any such decision. The commissioner or the commissioner's
243 designee may hear complaints of all consumers submitting claims
244 against a single new home construction contractor in one proceeding.

245 (i) No application for an order directing payment out of the New
246 Home Construction Guaranty Fund shall be made later than two years

247 from the final determination of, or expiration of time for, an appeal in
248 connection with any judgment, order or decree of restitution, and no
249 such application shall be for an amount in excess of thirty thousand
250 dollars.

251 (j) In order to preserve the integrity of the New Home Construction
252 Guaranty Fund, the commissioner, in the commissioner's sole
253 discretion, may order payment out of the fund of an amount less than
254 the actual loss or damages incurred by the consumer or less than the
255 order of restitution awarded by the commissioner or the Superior Court.
256 In no event shall any payment out of the fund be in excess of thirty
257 thousand dollars for any single claim by a consumer.

258 (k) If the money deposited in the New Home Construction Guaranty
259 Fund is insufficient to satisfy any duly authorized claim or portion of a
260 claim, the commissioner shall, when sufficient money has been
261 deposited in the fund, satisfy such unpaid claims or portions of claims
262 not exceeding thirty thousand dollars, in the order that such claims or
263 portions of claims were originally determined.

264 (l) Whenever the commissioner has caused any sum to be paid from
265 the New Home Construction Guaranty Fund to a consumer, the
266 commissioner shall be subrogated to all of the rights of the consumer up
267 to the amount paid plus reasonable interest, and prior to receipt of any
268 payment from the fund, the consumer shall assign all of the consumer's
269 right, title and interest in the claim up to such amount to the
270 commissioner, and any amount and interest recovered by the
271 commissioner on the claim shall be deposited in the fund.

272 (m) If the commissioner orders the payment of any amount as a result
273 of a claim against a new home construction contractor, the
274 commissioner shall determine if such contractor is possessed of assets
275 liable to be sold or applied in satisfaction of the claim on the New Home
276 Construction Guaranty Fund. If the commissioner discovers any such
277 assets, the commissioner may request that the Attorney General take
278 any action necessary for the reimbursement of the fund.

279 (n) If the commissioner orders the payment of an amount as a result
280 of a claim against a new home construction contractor, the
281 commissioner may, after notice and hearing in accordance with the
282 provisions of chapter 54, revoke the certificate of such contractor and
283 such contractor shall not be eligible to receive a new or renewed
284 certificate until such contractor has repaid such amount in full, plus
285 interest from the time such payment is made from the New Home
286 Construction Guaranty Fund, at a rate to be in accordance with section
287 37-3b, except that the commissioner may, in the commissioner's sole
288 discretion, permit a new home construction contractor to receive a new
289 or renewed certificate after such contractor has entered into an
290 agreement with the commissioner whereby such contractor agrees to
291 repay the fund in full in the form of periodic payments over a set period
292 of time. Any such agreement shall include a provision providing for the
293 summary suspension of any and all certificates held by the new home
294 construction contractor if payment is not made in accordance with the
295 terms of the agreement.

296 Sec. 4. Section 20-419 of the general statutes is repealed and the
297 following is substituted in lieu thereof (*Effective July 1, 2022*):

298 As used in this chapter, unless the context otherwise requires:

299 (1) "Certificate" means a certificate of registration issued under
300 section 20-422.

301 (2) "Commissioner" means the Commissioner of Consumer
302 Protection or any person designated by the commissioner to administer
303 and enforce this chapter.

304 (3) "Contractor" means any person who owns and operates a home
305 improvement business or who undertakes, offers to undertake or agrees
306 to perform any home improvement. "Contractor" does not include a
307 person for whom the total price of all of his home improvement
308 contracts with all of his customers does not exceed one thousand dollars
309 during any period of twelve consecutive months.

310 (4) "Home improvement" includes, but is not limited to, the repair,
311 replacement, remodeling, alteration, conversion, modernization,
312 improvement, rehabilitation or sandblasting of, or addition to any land
313 or building or that portion thereof which is used or designed to be used
314 as a private residence, dwelling place or residential rental property, or
315 the construction, replacement, installation or improvement of alarm
316 systems not requiring electrical work as defined by section 20-330,
317 driveways, swimming pools, porches, garages, roofs, siding, insulation,
318 sunrooms, flooring, patios, landscaping, fences, doors and windows,
319 waterproofing, water, fire or storm restoration or mold remediation in
320 connection with such land or building or that portion thereof which is
321 used or designed to be used as a private residence, dwelling place or
322 residential rental property or the removal or replacement of a residential
323 underground heating oil storage tank system, in which the total price
324 for all work agreed upon between the contractor and owner or proposed
325 or offered by the contractor exceeds two hundred dollars. "Home
326 improvement" does not include: (A) The construction of a new home;
327 (B) the sale of goods by a seller who neither arranges to perform nor
328 performs, directly or indirectly, any work or labor in connection with
329 the installation or application of the goods or materials; (C) the sale of
330 goods or services furnished for commercial or business use or for resale,
331 provided commercial or business use does not include use as residential
332 rental property; (D) the sale of appliances, such as stoves, refrigerators,
333 freezers, room air conditioners and others which are designed for and
334 are easily removable from the premises without material alteration
335 thereof; [and] (E) tree or shrub cutting or the grinding of tree stumps;
336 and (F) any work performed without compensation by the owner on his
337 own private residence or residential rental property.

338 (5) "Home improvement contract" means an agreement between a
339 contractor and an owner for the performance of a home improvement.

340 (6) "Owner" means a person who owns or resides in a private
341 residence and includes any agent thereof, including, but not limited to,
342 a condominium association. An owner of a private residence shall not
343 be required to reside in such residence to be deemed an owner under

344 this subdivision.

345 (7) "Person" means an individual, partnership, limited liability
346 company or corporation.

347 (8) "Private residence" means a single family dwelling, a multifamily
348 dwelling consisting of not more than six units, or a unit, common
349 element or limited common element in a condominium, as defined in
350 section 47-68a, or in a common interest community, as defined in section
351 47-202, or any number of condominium units for which a condominium
352 association acts as an agent for such unit owners.

353 (9) "Salesman" means any individual who (A) negotiates or offers to
354 negotiate a home improvement contract with an owner, or (B) solicits or
355 otherwise endeavors to procure by any means whatsoever, directly or
356 indirectly, a home improvement contract from an owner on behalf of a
357 contractor.

358 (10) "Residential rental property" means a single family dwelling, a
359 multifamily dwelling consisting of not more than six units, or a unit,
360 common element or limited common element in a condominium, as
361 defined in section 47-68a, or in a common interest community, as
362 defined in section 47-202, which is not owner-occupied.

363 (11) "Residential underground heating oil storage tank system"
364 means an underground storage tank system used with or without
365 ancillary components in connection with real property composed of
366 four or less residential units.

367 (12) "Underground storage tank system" means an underground tank
368 or combination of tanks, with any underground pipes or ancillary
369 equipment or containment systems connected to such tank or tanks,
370 used to contain an accumulation of petroleum, which volume is ten per
371 cent or more beneath the surface of the ground.

372 Sec. 5. Section 20-420a of the general statutes is repealed and the
373 following is substituted in lieu thereof (*Effective July 1, 2022*):

374 (a) No corporation shall perform or offer to perform home
375 improvements in this state unless such corporation has been issued a
376 certificate of registration by the commissioner. No such corporation
377 shall be relieved of responsibility for the conduct and acts of its agents,
378 employees or officers by reason of its compliance with the provisions of
379 this section, nor shall any individual contractor be relieved of
380 responsibility for home improvements performed by reason of his
381 employment or relationship with such corporation.

382 (b) A qualifying corporation desiring a certificate of registration shall
383 apply to the commissioner, [in writing] online, on a form provided by
384 the commissioner. The application shall (1) state the name and address
385 of such corporation, the city or town and the street and number where
386 such corporation is to maintain its principal place of business in this
387 state [,] and the names and addresses of officers; [,] and (2) contain a
388 statement that one or more individuals who shall direct, supervise or
389 perform home improvements for such corporation are registered home
390 improvement contractors and such other information as the
391 commissioner may require.

392 (c) Any certificate issued by the commissioner pursuant to this
393 section may be revoked, [or] suspended, or have conditions placed upon
394 the holder of the certificate by the commissioner after notice and hearing
395 in accordance with the provisions of chapter 54 concerning contested
396 cases, if it is shown that the holder of such certificate has not conformed
397 to the requirements of this chapter, that the certificate was obtained
398 through fraud or misrepresentation or that the contractor of record
399 employed by or acting on behalf of such corporation has had his
400 certificate of registration suspended or revoked by the commissioner.
401 The commissioner may refuse to issue or renew a certificate if any facts
402 exist which would entitle the commissioner to suspend or revoke an
403 existing certificate.

404 (d) Each such corporation shall file with the commissioner upon
405 application or renewal thereof a designation of an individual or
406 individuals registered to perform home improvements in this state who

407 shall direct or supervise the performance of home improvements by
408 such corporation in this state. Such corporation shall notify the
409 commissioner of any change in such designation within thirty days after
410 such change becomes effective.

411 (e) Each such corporation shall file with the commissioner upon
412 application or renewal thereof a certificate of good standing issued by
413 the office of the Secretary of the State. Such corporation shall notify the
414 commissioner of any change in corporate good standing within thirty
415 days after such change becomes effective.

416 Sec. 6. Subsection (a) of section 20-421 of the general statutes is
417 repealed and the following is substituted in lieu thereof (*Effective July 1,*
418 *2022*):

419 (a) Any person seeking a certificate of registration shall apply to the
420 commissioner [in writing] online, on a form provided by the
421 commissioner. The application shall include the applicant's name,
422 residence address, business address, business telephone number, proof
423 that the applicant has obtained general liability insurance coverage in
424 an amount not less than _____ dollars, demonstrated by providing the
425 policy number and business name of the insurance provider, and such
426 other information as the commissioner may require.

427 Sec. 7. Subsection (e) of section 20-427 of the general statutes is
428 repealed and the following is substituted in lieu thereof (*Effective July 1,*
429 *2022*):

430 (e) Certificates issued to home improvement contractors or salesmen
431 shall not be transferable or assignable, except when the holder of the
432 certificate changes only the name or type of business entity of such
433 business.

434 Sec. 8. Section 20-432 of the general statutes is repealed and the
435 following is substituted in lieu thereof (*Effective July 1, 2022*):

436 (a) The commissioner shall establish and maintain the Home
437 Improvement Guaranty Fund.

438 (b) Each salesman who receives a certificate pursuant to this chapter
439 shall pay a fee of forty dollars annually. Each contractor who receives a
440 certificate pursuant to this chapter shall pay a fee of one hundred dollars
441 annually to the guaranty fund. Such fee shall be payable with the fee for
442 an application for a certificate or renewal thereof. The annual fee for a
443 contractor who receives a certificate of registration as a home
444 improvement contractor acting solely as the contractor of record for a
445 corporation shall be waived, provided the contractor of record shall use
446 such registration for the sole purpose of directing, supervising or
447 performing home improvements for such corporation.

448 (c) Payments received under subsection (b) of this section shall be
449 credited to the guaranty fund until the balance in such fund equals
450 seven hundred fifty thousand dollars. Annually, if the balance in the
451 fund exceeds seven hundred fifty thousand dollars, the first four
452 hundred thousand dollars of the excess shall be deposited into the
453 consumer protection enforcement account established in section 21a-8a.
454 Any excess thereafter shall be deposited in the General Fund. Any
455 money in the guaranty fund may be invested or reinvested in the same
456 manner as funds of the state employees retirement system, and the
457 interest arising from such investments shall be credited to the guaranty
458 fund.

459 (d) Whenever an owner obtains a binding arbitration decision, a court
460 judgment, order or decree against any contractor holding a certificate or
461 who has held a certificate under this chapter within [the past] two years
462 of the effective date of entering into the contract with the owner, for loss
463 or damages sustained by reason of performance of or offering to
464 perform a home improvement within this state by a contractor holding
465 a certificate under this chapter, such owner may, upon the final
466 determination of, or expiration of time for, taking an appeal in
467 connection with any such decision, judgment, order or decree, apply to
468 the commissioner for an order directing payment out of said guaranty
469 fund of the amount unpaid upon the decision, judgment, order or
470 decree, for actual damages and costs taxed by the court against the
471 contractor, exclusive of punitive damages. The application shall be

472 made on forms provided by the commissioner and shall be
473 accompanied by a copy of the decision, court judgment, order or decree
474 obtained against the contractor, [together with a notarized affidavit,
475 signed and sworn to by the owner, affirming that: (1) He or she has
476 complied with all the requirements of this subsection; (2) he or she has
477 obtained a judgment, order or decree, stating the amount thereof and
478 the amount owing thereon at the date of application; and (3) he or she
479 has caused to be issued a writ of execution upon said judgment, order
480 or decree and the officer executing the same has made a return showing
481 that no bank accounts or personal property of the contractor liable to be
482 levied upon in satisfaction of the judgment, order or decree could be
483 found, or that the amount realized on the sale of them or of such of them
484 as were found, under the execution, was insufficient to satisfy the actual
485 damage portion of the judgment, order or decree or stating the amount
486 realized and the balance remaining due on the judgment, order or
487 decree after application thereon of the amount realized, except that the
488 requirements of this subdivision shall not apply to a judgment, order or
489 decree obtained by the owner in small claims court.] A true and attested
490 copy of said executing officer's return, when required, shall be attached
491 to such application, [and affidavit.] No application for an order directing
492 payment out of the guaranty fund shall be made later than two years
493 after the final determination of, or expiration of time for, taking an
494 appeal of said decision, court judgment, order or decree.

495 (e) Upon receipt of said application together with said copy of the
496 decision, court judgment, order or decree, [notarized affidavit] and true
497 and attested copy of the executing officer's return, the commissioner or
498 his designee shall inspect such documents for their veracity and upon a
499 determination that such documents are complete and authentic, and a
500 determination that the owner has not been paid, the commissioner shall
501 order payment out of the guaranty fund of the amount unpaid upon the
502 decision, judgment, order or decree for actual damages and costs taxed
503 by the court against the contractor, exclusive of punitive damages.

504 (f) Whenever an owner is awarded an order of restitution against any
505 contractor for loss or damages sustained by reason of performance of or

506 offering to perform a home improvement in this state by a contractor
507 holding a certificate or who has held a certificate under this chapter
508 within [the past] two years of the date of entering into the contract with
509 the owner, in a proceeding brought by the commissioner pursuant to
510 this section or subsection (d) of section 42-110d, or in a proceeding
511 brought by the Attorney General pursuant to subsection (a) of section
512 42-110m or subsection (d) of section 42-110d, or a criminal proceeding
513 pursuant to section 20-427, as amended by this act, such owner may,
514 upon the final determination of, or expiration of time for, taking an
515 appeal in connection with any such order of restitution, apply to the
516 commissioner for an order directing payment out of said guaranty fund
517 of the amount unpaid upon the order of restitution. The commissioner
518 may issue said order upon a determination that the owner has not been
519 paid.

520 (g) Before the commissioner may issue any order directing payment
521 out of the guaranty fund to an owner pursuant to subsections (e) or (f)
522 of this section, the commissioner shall first notify the contractor of the
523 owner's application for an order directing payment out of the guaranty
524 fund and of the contractor's right to a hearing to contest the
525 disbursement in the event that the contractor has already paid the owner
526 or is complying with a payment schedule in accordance with a court
527 judgment, order or decree. Such notice shall be given to the contractor
528 not later than fifteen days after receipt by the commissioner of the
529 owner's application for an order directing payment out of the guaranty
530 fund. If the contractor requests a hearing, in writing, by certified mail
531 not later than fifteen days after receiving the notice from the
532 commissioner, the commissioner shall grant such request and shall
533 conduct a hearing in accordance with the provisions of chapter 54. If the
534 commissioner does not receive a request by certified mail from the
535 contractor for a hearing not later than fifteen days after the contractor's
536 receipt of such notice, the commissioner shall determine that the owner
537 has not been paid, and the commissioner shall issue an order directing
538 payment out of the guaranty fund for the amount unpaid upon the
539 judgment, order or decree for actual damages and costs taxed by the
540 court against the contractor, exclusive of punitive damages, or for the

541 amount unpaid upon the order of restitution.

542 (h) The commissioner or his designee may proceed against any
543 contractor holding a certificate or who has held a certificate under this
544 chapter within the past two years of the effective date of entering into
545 the contract with the owner, for an order of restitution arising from loss
546 or damages sustained by any person by reason of such contractor's
547 performance of or offering to perform a home improvement in this state.
548 Any such proceeding shall be held in accordance with the provisions of
549 chapter 54. In the course of such proceeding, the commissioner or his
550 designee shall decide whether to exercise his powers pursuant to section
551 20-426; whether to order restitution arising from loss or damages
552 sustained by any person by reason of such contractor's performance or
553 offering to perform a home improvement in this state; and whether to
554 order payment out of the guaranty fund. Notwithstanding the
555 provisions of chapter 54, the decision of the commissioner or his
556 designee shall be final with respect to any proceeding to order payment
557 out of the guaranty fund and the commissioner and his designee shall
558 not be subject to the requirements of chapter 54 as they relate to appeal
559 from any such decision. The commissioner or his designee may hear
560 complaints of all owners submitting claims against a single contractor
561 in one proceeding.

562 (i) No application for an order directing payment out of the guaranty
563 fund shall be made later than two years from the final determination of,
564 or expiration of time for, appeal in connection with any decision,
565 judgment, order or decree of restitution.

566 (j) Whenever the owner satisfies the commissioner or his designee
567 that it is not practicable to comply with the requirements of [subdivision
568 (3) of] subsection (d) of this section and that the owner has taken all
569 reasonable steps to collect the amount of the decision, judgment, order
570 or decree or the unsatisfied part thereof and has been unable to collect
571 the same, the commissioner or his designee may in his discretion
572 dispense with the necessity for complying with such requirement.

573 (k) In order to preserve the integrity of the guaranty fund, the

574 commissioner, in the commissioner's sole discretion, may order
575 payment out of said fund of an amount less than the actual loss or
576 damages incurred by the owner or less than the order of restitution
577 awarded by the commissioner or the Superior Court. In no event shall
578 any payment out of said guaranty fund be in excess of [fifteen] twenty-
579 five thousand dollars for any single claim by an owner.

580 (l) If the money deposited in the guaranty fund is insufficient to
581 satisfy any duly authorized claim or portion thereof, the commissioner
582 shall, when sufficient money has been deposited in the fund, satisfy
583 such unpaid claims or portions thereof, in the order that such claims or
584 portions thereof were originally determined.

585 (m) Whenever the commissioner has caused any sum to be paid from
586 the guaranty fund to an owner, the commissioner shall be subrogated to
587 all of the rights of the owner up to the amount paid plus reasonable
588 interest, and prior to receipt of any payment from the guaranty fund,
589 the owner shall assign all of this right, title and interest in the claim up
590 to such amount to the commissioner, and any amount and interest
591 recovered by the commissioner on the claim shall be deposited to the
592 guaranty fund.

593 (n) If the commissioner orders the payment of any amount as a result
594 of a claim against a contractor, the commissioner shall determine if the
595 contractor is possessed of assets liable to be sold or applied in
596 satisfaction of the claim on the guaranty fund. If the commissioner
597 discovers any such assets, he may request that the Attorney General take
598 any action necessary for the reimbursement of the guaranty fund.

599 (o) If the commissioner orders the payment of an amount as a result
600 of a claim against a contractor, the commissioner may, after notice and
601 hearing in accordance with the provisions of chapter 54, revoke the
602 certificate of the contractor and the contractor shall not be eligible to
603 receive a new or renewed certificate until he has repaid such amount in
604 full, plus interest from the time said payment is made from the guaranty
605 fund, at a rate to be in accordance with section 37-3b, except that the
606 commissioner may, in his sole discretion, permit a contractor to receive

607 a new or renewed certificate after that contractor has entered into an
608 agreement with the commissioner whereby the contractor agrees to
609 repay the guaranty fund in full in the form of periodic payments over a
610 set period of time. Any such agreement shall include a provision
611 providing for the summary suspension of any and all certificates held
612 by the contractor if payment is not made in accordance with the terms
613 of the agreement.

614 Sec. 9. Section 20-417c of the general statutes is repealed and the
615 following is substituted in lieu thereof (*Effective July 1, 2022*):

616 The commissioner may revoke, suspend, [or] refuse to issue or renew,
617 or place conditions upon the renewal of any certificate issued pursuant
618 to sections 20-417a to 20-417j, inclusive, or place a registrant on
619 probation or issue a letter of reprimand after notice and hearing in
620 accordance with the provisions of chapter 54 concerning contested cases
621 if it is shown that the holder of such certificate has: (1) Failed to comply
622 with any provision of sections 20-417a to 20-417j, inclusive, or any
623 regulation adopted pursuant to said sections; (2) obtained the certificate
624 through fraud or misrepresentation; (3) engaged in conduct of a
625 character likely to mislead, deceive or defraud the public or the
626 commissioner; (4) engaged in any untruthful or misleading advertising;
627 (5) failed to reimburse the New Home Construction Guaranty Fund
628 established pursuant to section 20-417i, as amended by this act, for any
629 moneys paid to a consumer pursuant to said section; (6) engaged in an
630 unfair or deceptive business practice under subsection (a) of section 42-
631 110b; (7) failed to timely complete any task, as specified in a written
632 contract of sale; (8) failed to remedy any violation of any provision of
633 sections 47-116 to 47-121, inclusive, or any regulation adopted pursuant
634 to said sections; (9) failed to remedy any violation of any provision of
635 the State Building Code; or (10) if applicable, failed to maintain its
636 certificate of good standing issued by the office of the Secretary of the
637 State.

638 Sec. 10. Section 20-420 of the general statutes is repealed and the
639 following is substituted in lieu thereof (*Effective July 1, 2022*):

640 (a) No person shall hold himself or herself out to be a contractor or
641 salesperson without first obtaining a certificate of registration from the
642 commissioner as provided in this chapter, except (1) that an individual
643 or partner, or officer or director of a corporation registered as a
644 contractor shall not be required to obtain a salesperson's certificate, and
645 (2) as provided in subsections (e) and (f) of this section. No certificate
646 shall be given to any person who holds himself or herself out to be a
647 contractor that performs radon mitigation unless such contractor
648 provides evidence, satisfactory to the commissioner, that the contractor
649 is certified as a radon mitigator by the National Radon Safety Board or
650 the National Environmental Health Association. No certificate shall be
651 given to any person who holds himself or herself out to be a contractor
652 that performs removal or replacement of any residential underground
653 heating oil storage tank system unless such contractor provides
654 evidence, satisfactory to the commissioner, that the contractor [(1)] (A)
655 has completed a hazardous material training program approved by the
656 Department of Energy and Environmental Protection, and [(2)] (B) has
657 presented evidence of liability insurance coverage of one million dollars.

658 (b) No contractor shall employ any salesman to procure business
659 from an owner unless the salesman is registered under this chapter.

660 (c) No individual shall act as a home improvement salesman for an
661 unregistered contractor.

662 (d) On and after July 1, 2008, a home improvement contractor shall
663 not perform gas hearth product work, as defined in subdivision (22) of
664 section 20-330, unless such home improvement contractor holds a
665 limited contractor or journeyman gas hearth installer license pursuant
666 to section 20-334f.

667 (e) A retail establishment, which is a business that operates from a
668 fixed location where goods or services are offered for sale, may apply
669 for a certificate of registration as a salesperson on behalf of its employees
670 if it employs or otherwise compensates one or more salespersons whose
671 solicitation, negotiation and completion of sales are conducted entirely
672 at the retail establishment or virtually or by phone. The retail

673 establishment shall: (1) Apply for such registration on a form prescribed
674 by the commissioner, (2) maintain a list of all salespersons intended to
675 be covered by the retailer's certificate of registration, and (3) pay a fee
676 equal to the amount that would be due if each person were to apply
677 individually for a certificate of registration, including the amount that
678 would be due under the guaranty fund. The list of salespersons covered
679 by the retailer's certificate of registration shall be made available to the
680 department upon request. If any person covered by the retail
681 establishment's salesperson certificate of registration conducts activity
682 covered by the salesperson credential at a place other than the retail
683 establishment or virtually or by phone, such person shall apply for an
684 individual salesperson certificate of registration using the form
685 prescribed by the commissioner for such registrations and shall pay the
686 corresponding application fee.

687 (f) Certificates of registration for salespersons issued to retail
688 establishments shall not be transferable or assignable. A retail
689 establishment that is a holder of a salesperson certificate, however, may
690 remove an existing or former employee currently listed on the
691 certification of registration and replace that person with a new or
692 existing employee employed as a salesperson. If the retail establishment
693 adds or removes salespeople, there shall be no refund or supplemental
694 payment. The fee shall be based on the number of salespeople at the time
695 of each renewal.

696 Sec. 11. (NEW) (*Effective from passage*) While the holder of a limited
697 license issued pursuant to chapter 393 of the general statutes is enrolled
698 in an unlimited license apprenticeship program, such limited license
699 holder shall continue to be considered a journeyman or contractor for
700 limited work performance in such area for purposes of section 20-332b
701 of the general statutes and any regulation of Connecticut state agencies
702 adopted pursuant to said section. The limited license of the registered
703 apprentice in an unlimited category shall not be used to calculate the
704 number of apprentices that may be hired by a contractor in accordance
705 with section 20-332b of the general statutes.

706 Sec. 12. Subsection (b) of section 20-691 of the general statutes is
707 repealed and the following is substituted in lieu thereof (*Effective July 1,*
708 *2021*):

709 (b) (1) A person seeking registration as a locksmith shall apply to the
710 commissioner on a form provided by the commissioner. The application
711 shall include the applicant's name, residence address, business address,
712 business telephone number, a question as to whether the applicant has
713 been convicted of a felony in any state or jurisdiction, and such other
714 information as the commissioner may require. The applicant shall
715 submit to a request by the commissioner for a recent criminal history
716 records check. No registration shall be issued unless the commissioner
717 has received the results of a such records check. In accordance with the
718 provisions of section 46a-80 and after a hearing held pursuant to chapter
719 54, the commissioner may revoke, refuse to issue or refuse to renew a
720 registration when an applicant's criminal history records check reveals
721 the applicant has been convicted of a crime of dishonesty, fraud, theft,
722 assault, other violent offense or a crime related to the performance of
723 locksmithing.

724 (2) The application fee for registration as a locksmith and the biennial
725 renewal fee for such registration shall be two hundred dollars.

726 (3) The department shall establish and maintain a registry of
727 locksmiths. The registry shall contain the names and addresses of
728 registered locksmiths and such other information as the commissioner
729 may require. Such registry shall be updated at least annually by the
730 department, be made available to the public upon request and be
731 published on the department's Internet web site.

732 (4) No person shall engage in locksmithing, use the title locksmith or
733 display or use any words, letters, figures, title, advertisement or other
734 method to indicate said person is a locksmith unless such person has
735 obtained a registration as provided in this section.

736 (5) The following persons shall be exempt from registration as a
737 locksmith, but only if the person performing the service does not hold

738 himself or herself out to the public as a locksmith: (A) Persons employed
739 by a state, municipality or other political subdivision, or by any agency
740 or department of the government of the United States, acting in their
741 official capacity; (B) automobile service dealers who service, install,
742 repair or rebuild automobile locks; (C) retail merchants selling locks or
743 similar security accessories or installing, programming, repairing,
744 maintaining, reprogramming, rebuilding or servicing electronic garage
745 door devices; (D) members of the building trades who install or remove
746 complete locks or locking devices in the course of residential or
747 commercial new construction or remodeling; (E) employees of towing
748 services, repossessioners, or an automobile club representative or
749 employee opening automotive locks in the normal course of his or her
750 business. The provisions of this section shall not prohibit an employee
751 of a towing service from opening motor vehicles to enable a vehicle to
752 be moved without towing, provided the towing service does not hold
753 itself out to the public, by directory advertisement, through a sign at the
754 facilities of the towing service or by any other form of advertisement, as
755 a locksmith; (F) students in a course of study in locksmith programs
756 approved by the department; (G) warranty services by a lock
757 manufacturer or its employees on the manufacturer's own products; (H)
758 maintenance employees of a property owner or property management
759 companies at multifamily residential buildings, who service, install,
760 repair or open locks for tenants; [and] (I) persons employed as security
761 personnel at schools or institutions of higher education who open locks
762 while acting in the course of their employment; and (J) persons who
763 service, install or repair electronic locks, access control devices or other
764 similar locking devices that connect to an electronic security system,
765 provided such persons maintain an electrical contractor or
766 journeyperson licensed to perform such work as required pursuant to
767 chapter 393.

768 Sec. 13. Subsection (d) of section 51-15 of the general statutes is
769 repealed and the following is substituted in lieu thereof (*Effective July 1,*
770 *2022*):

771 (d) The procedure for the hearing and determination of small claims

772 as the same may be prescribed, from time to time, by the judges of the
 773 Superior Court shall be used in all small claims sessions of the court. The
 774 small claims procedure shall be applicable (1) to all actions, except
 775 actions of libel and slander, claiming money damages not in excess of
 776 five thousand dollars, (2) to actions claiming loss or damages not in
 777 excess of fifteen thousand dollars sustained by reason of performance of
 778 or offering to perform home improvement by a contractor holding a
 779 certificate under chapter 400 or pursuant to a contract for new home
 780 construction with a new home construction contractor holding a
 781 certificate under chapter 399a, and (3) to no other actions. If an action is
 782 brought in the small claims session by a tenant pursuant to subsection
 783 (g) of section 47a-21 to reclaim any part of a security deposit which may
 784 be due, the judicial authority hearing the action may award to the tenant
 785 the damages authorized by subsection (d) of said section and, if
 786 authorized by the rental agreement or any provision of the general
 787 statutes, costs, notwithstanding that the amount of such damages and
 788 costs, in the aggregate, exceeds the jurisdictional monetary limit
 789 established by this subsection. If a motion is filed to transfer a small
 790 claims matter to the regular docket in the court, the moving party shall
 791 pay the fee prescribed by section 52-259. The Attorney General or an
 792 assistant attorney general, or the head of any state agency or his or her
 793 authorized representative, while acting in his or her official capacity
 794 shall not be required to pay any small claims court fee. There shall be no
 795 charge for copies of service on defendants in small claims matters.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	20-417b
Sec. 2	July 1, 2022	New section
Sec. 3	July 1, 2022	20-417i
Sec. 4	July 1, 2022	20-419
Sec. 5	July 1, 2022	20-420a
Sec. 6	July 1, 2022	20-421(a)
Sec. 7	July 1, 2022	20-427(e)
Sec. 8	July 1, 2022	20-432
Sec. 9	July 1, 2022	20-417c

Sec. 10	<i>July 1, 2022</i>	20-420
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>July 1, 2021</i>	20-691(b)
Sec. 13	<i>July 1, 2022</i>	51-15(d)

Statement of Legislative Commissioners:

In Sec. 3(d), an obsolete date at the beginning of the first sentence was bracketed for clarity; in Sec. 4(4)(E), the new language was rephrased for clarity; the former Sec. 10 was deleted since it was an unamended existing statutory section; in Sec. 10(a), the new text was rephrased for clarity and in Sec. 10(e), the "notwithstanding" clause was deleted for clarity; and in Sec. 13 the new text was rephrased for clarity.

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 22 \$	FY 23 \$
Consumer Protection, Dept.	New Home Construction Guaranty Fund - Revenue Impact	None	35,000
Resources of the General Fund	GF - Revenue Impact	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes various changes to the Department of Consumer Protection (DCP) statutes resulting in the revenue impacts described below.

Section 1 changes the new home construction contractor license from \$240 biennially to \$120 annually and results in no fiscal impact in FY 22 and 23.

Section 1 also allows a new home construction contractor to engage in home improvement work resulting in a potential revenue loss to the state if these contractors seek to engage in this additional work. Current law requires new home construction contractors to receive a home improvement contractor license which has a \$120 annual fee in order to perform this additional work. There are approximately 2,300 new home construction contractors and 26,000 home improvement contractors licensed by DCP.

Section 3 results in a \$35,000 revenue gain to the New Home Construction Guaranty Fund in FY 23. Beginning in FY 23 new home construction contractors' guaranty fund contributions are modified from \$480 biennially to \$340 annually. Due to the current cycle of biennial payments, this results in the revenue gain described above.

Section 4 increases the definition of home improvement by including alarm system work that doesn't involve a licensed electrician resulting in a potential revenue gain to the state if additional home improvement licenses are applied for. The fee for a home improvement contractor license is \$120.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$	FY 26 \$
Resources of the General Fund	GF - Revenue Impact	(270,000)	270,000	(270,000)
Consumer Protection, Dept.	New Home Construction Guaranty Fund - Revenue Impact	(320,000)	700,000	(320,000)

Note: GF=General Fund

Municipal Impact: None

Explanation

The change in new home construction contractors' license fees and guaranty fund contributions (described above) results in the revenue impacts listed due to the change from biennial to annual licensure renewal and the current cycle of biennial payments.

The new home construction contractor license modification results in a \$270,000 revenue loss in FY 24 and 26 and a \$270,000 revenue gain in FY 25.

The New Home Construction Guaranty Fund modification results in a revenue loss of \$320,000 in FY 24 and 26 and a \$700,000 revenue gain in FY 25.

OLR Bill Analysis**sSB 266*****AN ACT CONCERNING NEW HOME CONSTRUCTION CONTRACTORS, HOME IMPROVEMENT CONTRACTORS, TRADE APPRENTICESHIPS AND LOCKSMITHS.*****SUMMARY**

This bill makes various changes in the laws governing registered new home construction contractors (also referred to as “new home builders” (NHB)) and home improvement contractors (HIC). Among other things, the bill:

1. requires NHBs and HICs to provide proof of general liability insurance when registering, which under the bill must be done online;
2. specifies the contents of an enforceable contract between an NHB and consumer;
3. increases NHBs’ guaranty fund contribution from \$480 biennially to \$340 annually;
4. raises the maximum payout from the guaranty fund for claims involving HICs from \$15,000 to \$25,000; and
5. provides additional methods for consumers to access the guaranty funds by (A) allowing them access after obtaining a binding arbitration decision and (B) raising the maximum claim amount that can be litigated using the Superior Court’s small claims process, if the issue is related to a registered HIC or NHB.

The bill also (1) specifies what constitutes home improvement and locksmith work; (2) creates an umbrella home improvement salesperson registration for retailers operating from a fixed location; (3) specifies

how a limited license holder who is training for an unlimited license is treated for purposes of the hiring ratio; and (4) makes various technical, conforming, and minor changes.

EFFECTIVE DATE: July 1, 2022, except the provision about the hiring ratio is effective upon passage (§ 11), and the locksmith provision is effective July 1, 2021 (§ 12).

§§ 1, 5 & 6 — NHB AND HIC REGISTRATION AND OVERSIGHT

By law, NHBs and HICs must register with the Department of Consumer Protection (DCP).

NHB and HIC Registration (§§ 1 & 5)

Annual Registration. The bill makes NHB registration an annual, rather than biennial, requirement. Under the bill, NHB and HIC registration must be done online, rather than in writing. The NHB fee is \$120 annually, rather than \$240 biennially. (The bill also increases their guaranty fund fee, as described below.)

Under the bill, NHB registrations expire on March 31 annually, rather than September 30 in odd-numbered years. The bill eliminates (1) DCP's authority to charge NHB applicants a registration fee on a pro rata basis, depending on the date of application and (2) language specifying that NHB registrations cannot be renewed if they are expired for more than six months. Under existing law, the fee for renewal is the same as the application fee.

Procedure for NHBs Operating as HICs. Under current law, if an NHB also does home improvement work, then the NHB must register as an HIC. The bill exempts NHBs from the registration requirement (and \$100 annual registration fee) but requires them, before doing such work to (1) notify DCP in writing of their intent to do home improvement work and (2) pay the annual Home Improvement Guaranty Fund fee (\$100).

General Liability Insurance Requirement for NHBs and HICs (§§ 1 & 6)

The bill requires, at the time of annual registration, NHBs and HICs to include proof that they have obtained general liability insurance. They must do so by providing the policy number and insurer's business name. The bill leaves unspecified the required coverage amount.

§ 4 — HOME IMPROVEMENT WORK DEFINED

The bill specifies that "home improvement" work includes installing or improving alarm systems that do not require a licensed electrician. But under the bill, "home improvement" does not include tree or shrub cutting or stump grinding. Therefore, individuals who engage in such alarm work would need to be registered, but those cutting trees or shrubs or grinding stumps would not.

§§ 1 & 7 — TRANSFERRING NHB OR HIC REGISTRATION FOLLOWING BUSINESS ORGANIZATION OR NAME CHANGE

Under current law, registrations are not transferable or assignable. The bill allows an NHB or HIC to change his or her business's name or form without paying to re-register with DCP and being assigned a new registration number. The bill also extends this exception for business name or form changes to registered home improvement salespersons who negotiate or solicit home improvement contracts on behalf of a contractor.

§§ 5 & 9 — PLACING CONDITIONS ON CERTAIN NHB AND HIC CERTIFICATES

The bill expands DCP's enforcement options regarding NHBs and corporations performing or offering to perform home improvements by allowing the department to place conditions on their registration certificates. Under current law, DCP is authorized only to completely revoke or suspend such certificates.

The bill requires DCP to impose conditions under the same process for revoking or suspending a certificate (i.e., provide notice and an opportunity for a hearing in accordance with the Uniform Administrative Procedure Act). (The bill does not modify DCP's enforcement options for other HICs.)

§§ 3 & 8 — GUARANTY FUNDS

The bill raises the fee used to capitalize the New Home Construction Guaranty Fund (§ 3) and the maximum reimbursement from the Home Improvement Guaranty Fund (§ 8) (see BACKGROUND). The bill permits consumers to access the funds after obtaining a binding arbitration decision (§§ 3 & 8).

The bill also makes minor and conforming changes, including (1) allowing consumers seeking to access the New Home Construction Guaranty Fund to submit to DCP a signed and sworn statement in lieu of a signed and sworn notarized affidavit and (2) eliminating the affidavit requirements for Home Improvement Guaranty Fund applicants.

New Home Construction Guaranty Fund's Capitalization

Under current law, NHBs biennially contribute \$480 to the New Home Construction Guaranty Fund as part of DCP registration. The bill makes their contribution annual and raises the contribution to \$340 annually.

Home Improvement Guaranty Fund Claim Amounts

The bill raises the maximum consumer reimbursement from the Home Improvement Guaranty Fund from \$15,000 per claim to \$25,000 per claim.

Expanded Access to the Funds Following Binding Arbitration

Under current law, a consumer who obtains a court judgment, order, or decree against a registered NHB or HIC may apply to DCP for restitution for the amount of the judgment, order, or decree, other than punitive damages, and subtracting any amount already recovered from the contractor. The bill allows consumers who have obtained a binding arbitration decision against a registered NHB or HIC to access the guaranty fund on the same terms.

Under the bill, binding arbitration decisions against or regarding an NHB or HIC are treated as court judgements, orders, and decrees for

purposes of accessing the guaranty funds.

§ 13 — EXPANDED AVAILABILITY OF SMALL CLAIMS PROCESS

The bill raises the monetary threshold, from \$5,000 to \$15,000, under which an action claiming loss or damages caused by a registered HIC or NHB, during their professional work, can be brought in the Superior Court's small claims session.

§ 10 — NEW UMBRELLA HOME IMPROVEMENT SALESPERSON REGISTRATION FOR RETAILERS

By law, individuals acting as a home improvement contractor or salesperson must register individually with DCP with limited exceptions. The bill exempts from the individual salesperson registration requirement individuals covered by an umbrella registration that the bill authorizes.

The bill authorizes retail establishments that operate from a fixed location (e.g., home improvement stores) where goods or services are offered for sale to register on behalf of their salespersons. This umbrella salesperson registration is available only to retailers whose salespersons solicit, negotiate, and complete sales entirely on the retailer's premises, virtually, or by phone.

Retailers must apply for the umbrella registration on a DCP-prescribed form, paying the same \$160 fee that would be due if each salesperson registered individually (i.e., the sum of the \$120 registration fee and \$40 guaranty fund contribution). Retailers must maintain a list of covered salespersons and make it available to DCP on request. A retailer can update its list to substitute one salesperson-employee for a former one without incurring new fees (nor is a refund given). The registration renewal fee is based on the retailer's current salesperson roster. (Renewal is presumably annually, but not specified.)

Umbrella salesperson registrations are not transferrable or assignable. A person who is covered under the umbrella registration must apply for a salesperson registration if he or she is doing covered work at a place other than the retailer's premises or by means other than

virtually or by phone.

§ 2 — NHB CONTRACT WITH CONSUMER

The bill requires NHBs to have a written contract for it to be valid or enforceable against a consumer. This is applicable for the construction or sale of a new home, or any portion of a new home, prior to occupancy. Under the bill, the written contract must:

1. be signed by the NHB and consumer;
2. contain the entire agreement between the NHB and consumer;
3. contain the NHB's name, address, and DCP registration number;
4. contain the transaction date and specify a start and completion date;
5. be entered into by a registered NHB; and
6. disclose each corporation, limited liability company, partnership, sole proprietorship, or other legal entity, which is or has been an NHB in which the subject NHB's owner or owners have been a shareholder, member, partner, or owner in the past five years.

The NHB must deliver the completed contract to the consumer at the time of execution at no cost. The bill authorizes the DCP commissioner to adopt regulations requiring additional contract provisions.

The bill requires any changes to the contract to be written and signed by both parties unless the DCP commissioner eliminates the requirement by regulation.

The bill specifies that its provisions do not preclude a registered NHB from recovering payment for work performed at the consumer's request if the NHB has a written contract signed by both parties that includes a start and completion date. A court may allow the NHB to recover the reasonable value of provided services if it determines equity requires it.

§ 11 — HIRING RATIO CALCULATION

As described below (see BACKGROUND), DCP regulations establish a “hiring ratio” for the electrical; plumbing; heating, piping, and cooling; sprinkler fitting; and sheet metal working trades. The hiring ratio limits the number of apprentices that an employer may use based on the number of journeypersons or contractors employed.

Under the bill, for purposes of this hiring ratio, limited license holders count as journeypersons or contractors if they are working as such when enrolled in an unlimited license apprenticeship program. The bill also specifies that the unlimited category registered apprentice’s limited license must not be used to calculate the number of apprentices that the unlimited contractor may hire under the hiring ratio.

§ 12 — DEFINING LOCKSMITH

The bill exempts certain work from the definition of locksmithing, therefore exempting individuals who perform such work from registering with DCP as locksmiths. The bill exempts individuals who service, install, or repair electronic locks, access control devices, or other similar locking devices that connect to an electronic security system. The exemption only applies if (1) a licensed electrician does any required electrical work and (2) the individual does not publicly hold himself or herself out as a locksmith.

BACKGROUND

Guaranty Funds

The New Home Construction and Home Improvement Guaranty Funds reimburse consumers who are unable to recover losses for damages caused by registered new home construction contractors and registered home improvement contractors, respectively. Both funds are capitalized through fees paid by NHBs and HICs. Each fund is capped at \$750,000 annually with excess funds transferred to DCP’s Consumer Protection Enforcement Account and then the General Fund.

Hiring Ratio

By law, each trade has three different basic levels of expertise: apprentice, journeyperson, and contractor. Contractors may offer their

services to the public; apprentices and journeypersons must work for contractors. The hiring ratio limits the number of apprentices that an employer may use based on the number of journeypersons or contractors employed. (The hiring ratio is distinct from job (or work) site ratios that apply to registered apprenticeship trades.)

Limited and Unlimited Licenses

Within the contractor and journey person classifications, there are two license types: limited and unlimited. An unlimited licensee has permission to do a broad range of work within his or her trade; limited licenses authorize a narrower scope of practice.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (02/16/2021)