



General Assembly

January Session, 2019

Raised Bill No. 7268

LCO No. 4712



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING HOME IMPROVEMENT CONTRACTORS AND SALESPERSONS.

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

1 Section 1. Section 20-419 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 As used in this chapter and sections 2 and 3 of this act, unless the
4 context otherwise requires:

5 (1) "Business day" has the same meaning as provided in section 42-
6 134a.

7 ~~[(1)]~~ (2) "Certificate" means a certificate of registration issued under
8 section 20-422.

9 ~~[(2)]~~ (3) "Commissioner" means the Commissioner of Consumer
10 Protection or any person designated by the commissioner to
11 administer and enforce this chapter.

12 ~~[(3)]~~ (4) "Contractor" means any person who owns and operates a

13 home improvement business or who undertakes, offers to undertake
14 or agrees to perform any home improvement. "Contractor" does not
15 include a person for whom the total price of all of his home
16 improvement contracts with all of his customers does not exceed one
17 thousand dollars during any period of twelve consecutive months.

18 ~~[(4)]~~ (5) "Home improvement" includes, but is not limited to, the
19 repair, replacement, remodeling, alteration, conversion,
20 modernization, improvement, rehabilitation or sandblasting of, or
21 addition to any land or building or that portion thereof which is used
22 or designed to be used as a private residence, dwelling place or
23 residential rental property, or the construction, replacement,
24 installation or improvement of driveways, swimming pools, porches,
25 garages, roofs, siding, insulation, sunrooms, flooring, patios,
26 landscaping, fences, doors and windows, waterproofing, water, fire or
27 storm restoration or mold remediation in connection with such land or
28 building or that portion thereof which is used or designed to be used
29 as a private residence, dwelling place or residential rental property or
30 the removal or replacement of a residential underground heating oil
31 storage tank system, in which the total price for all work agreed upon
32 between the contractor and owner or proposed or offered by the
33 contractor exceeds two hundred dollars. "Home improvement" does
34 not include: (A) The construction of a new home; (B) the sale of goods
35 by a seller who neither arranges to perform nor performs, directly or
36 indirectly, any work or labor in connection with the installation or
37 application of the goods or materials; (C) the sale of goods or services
38 furnished for commercial or business use or for resale, provided
39 commercial or business use does not include use as residential rental
40 property; (D) the sale of appliances, such as stoves, refrigerators,
41 freezers, room air conditioners and others which are designed for and
42 are easily removable from the premises without material alteration
43 thereof; and (E) any work performed without compensation by the
44 owner on his own private residence or residential rental property.

45 ~~[(5)]~~ (6) "Home improvement contract" means an agreement
46 between a contractor and an owner for the performance of a home

47 improvement.

48 [(6)] (7) "Owner" means a person who owns or resides in a private
49 residence and includes any agent thereof, including, but not limited to,
50 a condominium association. An owner of a private residence shall not
51 be required to reside in such residence to be deemed an owner under
52 this subdivision.

53 [(7)] (8) "Person" means an individual, partnership, limited liability
54 company or corporation.

55 [(8)] (9) "Private residence" means a single family dwelling, a
56 multifamily dwelling consisting of not more than six units, or a unit,
57 common element or limited common element in a condominium, as
58 defined in section 47-68a, or in a common interest community, as
59 defined in section 47-202, or any number of condominium units for
60 which a condominium association acts as an agent for such unit
61 owners.

62 [(9)] (10) "Salesman" means any individual who (A) negotiates or
63 offers to negotiate a home improvement contract with an owner or (B)
64 solicits or otherwise endeavors to procure by any means whatsoever,
65 directly or indirectly, a home improvement contract from an owner on
66 behalf of a contractor.

67 [(10)] (11) "Residential rental property" means a single family
68 dwelling, a multifamily dwelling consisting of not more than six units,
69 or a unit, common element or limited common element in a
70 condominium, as defined in section 47-68a, or in a common interest
71 community, as defined in section 47-202, which is not owner-occupied.

72 [(11)] (12) "Residential underground heating oil storage tank
73 system" means an underground storage tank system used with or
74 without ancillary components in connection with real property
75 composed of four or less residential units.

76 [(12)] (13) "Underground storage tank system" means an

77 underground tank or combination of tanks, with any underground
78 pipes or ancillary equipment or containment systems connected to
79 such tank or tanks, used to contain an accumulation of petroleum,
80 which volume is ten per cent or more beneath the surface of the
81 ground.

82 Sec. 2. (NEW) (*Effective October 1, 2019*) Notwithstanding any
83 provision of the general statutes, no contractor shall:

84 (1) Require, as a precondition to entering into or performing home
85 improvements under a home improvement contract, an owner to
86 deposit with the contractor more than one-half of the total cash price of
87 all work to be performed pursuant to a home improvement contract;

88 (2) Advertise, offer or promise to provide, directly or indirectly, any
89 allowance, compensation, discount, payment or rebate to an owner for
90 any portion of the owner's insurance deductible as an inducement for
91 such owner to enter into a home improvement contract with such
92 contractor; or

93 (3) Induce the sale of any goods or services by advertising, offering
94 or promising to provide, directly or indirectly, to an owner any
95 allowance, bonus, compensation, coupon, credit, discount, fee, gift,
96 payment, prize, referral fee, trade-in or trade-in payment.

97 Sec. 3. (NEW) (*Effective October 1, 2019*) Each contractor shall notify
98 the commissioner of any change in such contractor's business or trade
99 name, or primary residence or business address, not later than thirty
100 days after the date of such change.

101 Sec. 4. Subsection (a) of section 20-420 of the general statutes is
102 repealed and the following is substituted in lieu thereof (*Effective*
103 *October 1, 2019*):

104 (a) (1) No person shall hold himself or herself out to be a contractor
105 or salesperson without first (A) obtaining a certificate of registration
106 from the commissioner as provided in this chapter, except that an

107 individual or partner, or officer or director of a corporation registered
108 as a contractor shall not be required to obtain a salesperson's
109 certificate, and (B) presenting evidence of (i) bodily injury, property
110 damage liability, public liability and workers' compensation insurance
111 coverage in amounts prescribed by the commissioner in consultation
112 with the Insurance Commissioner, except as provided in subdivision
113 (3) of this subsection, and (ii) any insurance coverage required by
114 federal law.

115 (2) No certificate shall be given to any person who holds himself or
116 herself out to be a contractor that performs radon mitigation unless
117 such contractor provides evidence, satisfactory to the commissioner,
118 that the contractor is certified as a radon mitigator by the National
119 Radon Safety Board or the National Environmental Health
120 Association.

121 (3) No certificate shall be given to any person who holds himself or
122 herself out to be a contractor that performs removal or replacement of
123 any residential underground heating oil storage tank system unless
124 such contractor provides evidence, satisfactory to the commissioner,
125 that the contractor [(1)] (A) has completed a hazardous material
126 training program approved by the Department of Energy and
127 Environmental Protection, and [(2)] (B) has presented evidence of
128 liability insurance coverage of one million dollars.

129 Sec. 5. Subsection (a) of section 20-421 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective*
131 *October 1, 2019*):

132 (a) Any person seeking a certificate of registration shall apply to the
133 commissioner in writing, on a form provided by the commissioner.
134 The application shall include: [the]

135 (1) The applicant's name [, residence address, business address,
136 business telephone number] and trade name, if the applicant is a
137 natural person, or business name, if the applicant is not a natural
138 person;

139 (2) The applicant's principal residence address, if the applicant is a
140 natural person, or principal business address, if the applicant is not a
141 natural person;

142 (3) The applicant's business telephone number, electronic mail
143 address and Internet web site address;

144 (4) The applicant's Social Security number, if the applicant is a
145 natural person, or federal employer identification number, if the
146 applicant is not a natural person;

147 (5) For each affiliate, partner, subsidiary or trustee of the applicant,
148 the name, trade name and principal residence address, or business
149 name and principal business address, of such affiliate, partner,
150 subsidiary or trustee;

151 (6) If the applicant is not a natural person, the name and principal
152 residence address of each director, officer or principal shareholder of
153 such applicant;

154 (7) A statement, signed and sworn to by the applicant, disclosing
155 whether (A) the applicant previously held a certificate of registration
156 and, if the applicant previously held such a certificate, (i) under what
157 name or names such applicant held such certificate, and (ii) whether
158 such certificate was suspended or revoked, and (B) any judgment or
159 arbitration award has been entered against the applicant;

160 (8) Proof that the applicant maintains the insurance coverage
161 required under subsection (a) of section 20-420, as amended by this act;
162 and [such]

163 (9) Such other information as the commissioner may require.

164 Sec. 6. Subsection (a) of section 20-426 of the general statutes is
165 repealed and the following is substituted in lieu thereof (*Effective*
166 *October 1, 2019*):

167 (a) (1) The commissioner may revoke, suspend or refuse to issue or

168 renew any certificate of registration as a home improvement contractor
169 or salesperson or place a registrant on probation or issue a letter of
170 reprimand for:

171 ~~[(1)] (A)~~ Conduct of a character likely to mislead, deceive or defraud
172 the public or the commissioner; ~~[(2) engaging]~~

173 ~~(B) Engaging~~ in any untruthful or misleading advertising; ~~[(3)~~
174 ~~failing]~~

175 ~~(C) Failing~~ to reimburse the guaranty fund established pursuant to
176 section 20-432 for any moneys paid to an owner pursuant to subsection
177 (o) of section 20-432; ~~[(4) unfair]~~

178 ~~(D) Unfair~~ or deceptive business practices; ~~[or (5) violation]~~

179 ~~(E) Violation~~ of any of the provisions of the general statutes relating
180 to home improvements or any regulation adopted pursuant to any of
181 such provisions; ~~[.]~~

182 ~~(F) Gross malpractice or incompetence, as determined by the~~
183 ~~commissioner;~~

184 ~~(G) Failing to maintain insurance coverage required under~~
185 ~~subsection (a) of section 20-420, as amended by this act; or~~

186 ~~(H) Failing to pay any fees or taxes due and owing to this state.~~

187 ~~(2)~~ The commissioner may refuse to issue or renew any certificate of
188 registration as a home improvement contractor or salesperson of any
189 person subject to the registration requirements of chapter 969.

190 Sec. 7. Section 20-429 of the general statutes is repealed and the
191 following is substituted in lieu thereof (*Effective October 1, 2019, and*
192 *applicable to home improvement contracts entered into, amended or renewed*
193 *on or after said date*):

194 (a) (1) (A) No home improvement contract shall be valid or
195 enforceable against an owner unless it:

- 196 (i) Is in writing; [,]
- 197 (ii) [is] Is signed by the owner and the contractor; [,]
- 198 (iii) [contains] Contains the entire agreement between the owner
199 and the contractor; [, (iv) contains]
- 200 (iv) Contains an itemized list and description of all home
201 improvements to be performed pursuant to the contract;
- 202 (v) Contains the cash price of each home improvement to be
203 performed pursuant to the contract;
- 204 (vi) Contains a reasonable estimate by the contractor of the total
205 cash price of all home improvements to be performed pursuant to the
206 contract;
- 207 (vii) Contains the date of the transaction; [, (v) contains the name
208 and address of the contractor and the contractor's registration number,
209 (vi) contains]
- 210 (viii) Contains the contractor's full legal name, business and trade
211 names, principal residence or business address, business telephone
212 number, business electronic mail address and registration number;
- 213 (ix) Contains the information required by subparagraph (A)(viii) of
214 this subdivision for each person who will perform any home
215 improvements described in the contract in such person's capacity as a
216 day laborer, independent contractor or subcontractor;
- 217 (x) Contains a notice of the owner's cancellation rights in accordance
218 with the provisions of chapter 740; [, (vii) contains]
- 219 (xi) Contains a notice of the owner's cancellation rights in
220 accordance with subparagraph (B) of this subdivision;
- 221 (xii) Contains not fewer than two cancellation forms in accordance
222 with subparagraph (B) of this subdivision;

223 (xiii) Contains a starting date and completion date; [, (viii) is]

224 (xiv) Is entered into by a registered salesman or registered
225 contractor; [, and (ix) includes]

226 (xv) Includes a provision disclosing each corporation, limited
227 liability company, partnership, sole proprietorship or other legal
228 entity, which is or has been a home improvement contractor pursuant
229 to the provisions of this chapter or a new home construction contractor
230 pursuant to the provisions of chapter 399a, in which the owner or
231 owners of the home improvement contractor are or have been a
232 shareholder, member, partner, or owner during the previous five
233 years;

234 (xvi) Includes a provision disclosing that the contractor maintains
235 the insurance coverage required under subsection (a) of section 20-420,
236 as amended by this act, the name of each insurer that issued such
237 coverage to the contractor and the coverage limits under each policy
238 providing such coverage; and

239 (xvii) Includes a provision allowing the owner, at the owner's
240 discretion, to make payments to the contractor pursuant to the contract
241 by cash, check or credit card.

242 (B) (i) Each contract shall provide the owner with a right to cancel
243 such contract and include a statement, in substantially the following
244 form, in not less than ten-point, boldface type located immediately
245 above the place provided in such contract for the owner's signature:

246 "You may cancel this contract not later than midnight on the third
247 business day after both you and the contractor signed this contract or
248 you received notice from your insurer denying any part of your claim
249 for the cost of the home improvements to be performed pursuant to
250 this contract, whichever last occurs. Please see the attached notice of
251 cancellation forms for additional information."

252 (ii) Each contract shall contain not fewer than two cancellation

253 forms, in substantially the following form and in not less than ten-
254 point, boldface type, attached to, and easily detachable from, such
255 contract:

256 NOTICE OF CANCELLATION

257 You may cancel this contract not later than midnight on the third
258 business day after both you and the contractor sign this contract or you
259 receive notice from your insurer denying any part of your claim for the
260 cost of the home improvements to be performed pursuant to this
261 contract, whichever last occurs. In order to cancel this contract, you
262 must sign, date and deliver, mail or electronically mail this notice to
263 (insert name of contractor) at (insert principal business address and
264 business electronic mail address of contractor) by the end of the three-
265 day period described in this notice. If you cancel this contract, the
266 contractor shall return all payments that you have made to the
267 contractor pursuant to this contract, less the reasonable cost of any and
268 all home improvements that the contractor performed pursuant to this
269 contract prior to cancellation, and cancel the contractor's security
270 interest, if any, in any home improvements performed prior to
271 cancellation not later than ten business days after the contractor
272 receives this notice. You should retain a copy of this notice for your
273 records.

274 I HEREBY CANCEL THIS TRANSACTION:

275 Signature

276 (Insert date)

277 [(B)] (C) Each change in the terms and conditions of a contract shall
278 be in writing and shall be signed by the owner and contractor, except
279 that the commissioner may, by regulation, dispense with the necessity
280 for complying with the requirement that each change in a home
281 improvement contract shall be in writing and signed by the owner and
282 contractor.

283 (2) A contract for repair, remediation or mitigation as set forth in
284 section 38a-313a shall conform to the requirements set forth in
285 subparagraph (A) of subdivision (1) of this subsection and section 38a-
286 313a.

287 (b) No home improvement contract shall be valid if it includes any
288 provision obligating the owner to instruct the home improvement
289 contractor, by a date determined by such contractor, that periodic
290 home improvements are not to be performed unless it also includes a
291 provision requiring the contractor to remind the owner of that
292 obligation by means of a card or letter mailed to the owner and
293 postmarked not earlier than twenty days, and not later than ten days,
294 prior to such date.

295 (c) The contractor shall provide and deliver to the owner, without
296 charge, a completed copy of the home improvement contract at the
297 time such contract is executed.

298 (d) The commissioner may, by regulation, require the inclusion of
299 additional contractual provisions.

300 (e) Each home improvement contract entered into shall be
301 considered a home solicitation sale pursuant to chapter 740 and shall
302 be subject to the requirements of said chapter regardless of the location
303 of the transaction or of the signing of the contract. Each home
304 improvement contract in which the owner agrees to repay the
305 contractor an amount loaned or advanced to the owner by the
306 contractor for the purposes of paying for the goods and services
307 provided in such contract, or which contains a finance charge, (1) shall
308 set forth the information required to be disclosed pursuant to the
309 Truth-in-Lending Act, sections 36a-675 to 36a-685, inclusive, (2) shall
310 allow the owner to pay off in advance the full amount due and obtain
311 a partial refund of any unearned finance charge, and (3) may contain a
312 finance charge set at a rate of not more than the rate allowed for loans
313 pursuant to section 37-4. As used in this subsection, "finance charge"
314 means the amount in excess of the cash price for goods and services

315 under the home improvement contract to be paid by the owner for the
 316 privilege of paying the contract price in installments over a period of
 317 time.

318 (f) Nothing in this section shall preclude a contractor who has
 319 complied with subparagraphs (A)(i), (ii), [(vi)] (x), [(vii)] (xiii) and
 320 [(viii)] (xiv) of subdivision (1) of subsection (a) of this section from the
 321 recovery of payment for work performed based on the reasonable
 322 value of services which were requested by the owner, provided the
 323 court determines that it would be inequitable to deny such recovery.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	20-419
Sec. 2	<i>October 1, 2019</i>	New section
Sec. 3	<i>October 1, 2019</i>	New section
Sec. 4	<i>October 1, 2019</i>	20-420(a)
Sec. 5	<i>October 1, 2019</i>	20-421(a)
Sec. 6	<i>October 1, 2019</i>	20-426(a)
Sec. 7	<i>October 1, 2019, and applicable to home improvement contracts entered into, amended or renewed on or after said date</i>	20-429

Statement of Purpose:

To: (1) Modify both the permissible and required terms of home improvement contracts; (2) preclude home improvement contractors from engaging in certain conduct to induce owners to enter into home improvement contracts; (3) require home improvement contractors to notify the commissioner regarding changes in their business names, trade names and addresses; (4) require home improvement contractors to maintain insurance coverage; (5) expand the required content of the application for a certificate of registration as a home improvement contractor; and (6) modify the grounds on which the Commissioner of Consumer Protection may (A) reprimand or place a home improvement contractor or salesperson on probation, or (B) revoke,

suspend, or refuse to issue or renew a certificate of registration as a home improvement contractor or salesperson.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]