



**HOME BUILDERS & REMODELERS ASSOCIATION
OF CONNECTICUT, INC.**

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*Your Home
Is Our
Business*

June 4, 2014

To: Honorable William M. Rubenstein,
Commissioner, Department of Consumer Protection

From: William H. Ethier, CAE, Chief Executive Officer

Re: Special Act 13-18 and Home Improvement Contractor Licensing

On behalf of the HBRA of Connecticut, thank you very much for the opportunity to comment on the Department of Consumer Protection's charge, under Special Act 13-18, to report to the legislature on the home improvement contractor (HIC) registration program.

The HBRA of Connecticut is a professional trade association with about eight hundred fifty (850) member firms statewide employing tens of thousands of CT's citizens. Our members, all small businesses, are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry and to consumers. While our membership has declined over the course of our eight-year Great Recession from its high of 1,500 members, we build between 70% to 80% of all new homes and apartments in the state each year and engage in countless home remodeling projects.

We provide comments below on the four questions posed to the agency by the legislature. We also offer comments on additional issues that we strongly believe need to be addressed to improve the regulation of HICs and further protect consumers.

We have traditionally opposed HIC licensing (i.e., mandatory education and testing) for a variety of reasons that can be summarized in the attached talking points, which we used in 2013 before the legislature. In 2013, a small group of remodelers, CT Chapter of NARI, proposed an undefined program to license HICs. It was unclear from the presentations made at the public hearing before the General Law Committee exactly what would be included in the proposed licensing program. The lack of clarity and specifics of the proposal, as with all such proposals over many past years, produces our opposition.

As noted in the heading of the attached talking points, better regulation of HICs and better protection of consumers is a multi-layered problem that will not be solved by undefined education and testing of contractors. While we fully support and work hard to promote professionalism in our industry and improve the skills of our members, and recognize the high number of consumer complaints against HICs, we also believe the issues concerning our industry should not be overstated. While the raw number of HIC complaints is high relative to complaints about other regulated businesses, when compared to the vast number of entities operating in our industry (upwards of 35,000 contractors), the level of complaints on a percentage basis is likely comparable to other regulated businesses and trades.

Questions Posed by Special Act 13-18:

1. Whether home improvement contractors should be tested and licensed, instead of registered, by the Department of Consumer Protection:

Since the problems surrounding this topic are multi-layered, testing and licensing HICs should not be considered unless and until certain issues regarding enforcement, consumer education and program structure are addressed. Without dealing with these matters, testing and licensing HICs will not create a better regulatory system or improve consumer protection. If these matters are addressed, as described in this memo, we believe that both contractors and consumers could be better served with a requirement for, or perhaps with incentives to voluntarily undertake, some minimal education, as outlined below.

To better answer question 1. of Special Act 13-18, we start with additional questions. What is the purpose of requiring home improvement contractors to be registered or licensed in the first place? Assuming the answer is to protect consumers, the next question is, protect them from what? - Unscrupulous contractors, unqualified or poorly skilled tradesmen, poorly skilled business owners, or some combination of all?

Unscrupulous contractors, those who don't follow the law, commit fraud, or intentionally or with gross negligence cause property damage or otherwise harm consumers, will likely continue to work underground regardless of the registration/licensing laws they may be breaking – unless the penalties are so severe it is not worth the risk of avoiding compliance (see question 2 below).

For other contractors, the vast majority of whom want to do right by their customers while earning a living, also produce complaints from consumers that are based on any number of issues, such as workmanship questions, or unclear expectations of what a project will include. However, it is impossible to glean from the DCP database of complaints exactly what was involved that led to a consumer complaint. **We have proposed to DCP in the past – and do so again here – that the agency use a more specific complaint form that is tailored to the HIC industry.** We offer again such a form that we developed for the agency's use and would be happy to meet with you and your staff to discuss its implementation. We believe the better data that will be produced from such a specific complaint form will lead to better solutions that address the genesis of consumer complaints about HICs.

In addition, we do not know if the agency utilizes – but would propose that it does use – widely-accepted performance guidelines produced by the industry that addresses workmanship issues in residential construction. A couple such nationally-recognized publications exist and we would be happy to meet with you and your staff to discuss their use. Such performance guidelines, if more broadly used by residential contractors and distributed to their customers, could greatly reduce the volume of complaints that are based on workmanship issues.

To supplement the attached talking points that speak against licensing, **another issue that must be addressed, depending on what would be taught in any mandatory educational sessions, is the huge breadth of how HICs are defined under CT law.** Perhaps, certain topics, such as those outlined in the agency's booklet, [The Connecticut Contractor for Home Improvement and New Home Construction](#), are applicable to all HICs. We find the agency's 2013 booklet to be very good, and a curriculum based on some of its contents may be appropriate, provided other issues we offer in this memo are also addressed. About fifteen (15) years ago, we actually developed such a curriculum through the work of our association's Contractor Quality & Education Committee. Part of that effort was the creation of the CT Institute of Professional Builders & Remodelers, Inc. (CIPBR), a 501(c)(3) charitable, education and research organization wholly-owned by the HBRA of CT. If a continuing education curriculum is to be mandated or an incentive-based approach is created, CIPBR, Inc. is an established vehicle to provide such education and certify participation to the agency.

But the various types of knowledge or proficiencies advocated by others in the past (e.g., building code knowledge, proficiency in various trades) is simply not applicable to all HICs. For example, most landscapers, painters, window treatment specialists or many others who perform home improvements not requiring a building permit do not need to have any knowledge of building codes. The knowledge and skills required by a framer are very different from those required of a tile installer, a roofer, a garage door installer, and countless other specialty unlicensed trades or work practices. Therefore, a decision would have to be made as to what would be taught in any mandatory educational requirement and to which HICs such mandate would apply. But we do not recommend developing tens upon tens of different curricula tailored to the many different trades and skill sets required to perform the wide universe of home improvements.

Another issue that needs to be addressed if licensing is adopted, is who (which persons) will be required to be educated? Currently, it is the HIC firm, as well as HIC salespersons, that are registered. Some firms have business owners that do not perform most (and for some, not even any) of the actual work. A responsible person would have to be identified for each licensed firm, and a tracking system established to follow the responsible person if, for example, they move to another firm or set up a new firm.

Finally, if licensing is adopted in any form, e.g., full blown licensing with education and testing, certified continuing education requirements without testing, an incentive-based voluntary approach to education, or an incentive-based acquisition of industry-backed certifications or designations, the price charged to consumers will go up. It may be worth it if done correctly, but such a result is certain to occur.

2. What problems, if any, exist with the current system of registration of home improvement contractors:

The biggest problem with the current registration program is the need for more aggressive enforcement. We recognize this is a resource issue for the agency, and that falls on the legislature for raiding the money HICs pay for registrations and the guaranty fund. We also challenge the notion that certain contractors should not be put out of business. We strongly support a level playing field for all contractors. While we can understand some leniency for first-time offenses (our general philosophy of business regulation is to use initial enforcement as an educational tool, a teaching moment, to bring violators on board with what they should be doing), we believe subsequent violations should be dealt with more harshly. Again, some contractors violate the law because it's worth the risk of getting caught. We urge the legislature to make that risk untenable. We also believe that focusing enforcement efforts on unregistered contractors will provide the biggest bang for the agency's limited dollars. If licensing or continuing education is required (see question 1 above), greater enforcement and focus on unlicensed contractors becomes even more important. Unlicensed contractors may want to avoid the time and expense of attending courses, creating an additional advantage for them relative to the legitimate contractor who takes the education and becomes properly licensed.

In addition, we support much more public education about the need to use properly registered HICs. Again, we understand this is a resource issue, but despite the sting operations – which we support – and occasional press releases, most consumers do not place proper registration high enough on their issues to consider when engaging a contractor. Much higher on their list (issues which might never be overcome) are the price for what will be done, when the job can be done, and a feeling of comfort with whom they are dealing. Proper registration (or licensing) is either presumed or an after-thought for many consumers, if it is thought of at all.

As stated in the prior two paragraphs, the third issue with the current system is the raid of the funds HICs pay. The legislature needs to know that registered HICs are not getting what they pay for. This hurts both thousands of legitimate small businesses and all consumers.

3. A survey of how other states permit or license home improvement contractors:

We do not know if the agency is a member of the National Association of State Contractors Licensing Agencies (NASCLA), but we understand its website provides licensing information for all or most states. See, http://www.nascla.org/licensing_information. In addition, we participate in an extensive and robust network of contractors and association executives from across the nation, all under the umbrella of the National Association of Home Builders. If the agency wants to consider the programs in particular states, we would be happy to obtain the experience from the contractors' perspectives in those states and share it with you and your staff. It is our anecdotal understanding, however, that the level of

complaints from consumers about contractors is no better or worse in states with full blown licensing and testing versus those states with little regulation of contractors.

4. Recommendations, if any, for improvement of the current system of registration of home improvement contractors in this state:

We believe our comments under question 2 above answers this question. Greater enforcement, a willingness to put repeat offenders out of this business, and greater consumer education about the importance of using properly registered contractors will be better for both contractors and consumers. The legislature also needs to stop raiding the fees HICs pay so the agency has the resources for greater enforcement and consumer education.

Additionally, the agency's booklet, which is written for contractors, is a good tool for contractors. We would also suggest a few additions, such as referencing appropriate performance guidelines mentioned above. However, there is no assurance that every registered contractor reads the booklet and we wish all would do so. Also, the same booklet, but shortened and written for the consumer audience, would also be beneficial. With proper funding, the consumer version could be printed and distributed by contractors directly to their customers and through consumer outlets such as big box stores, lumber yards and building supply stores. Stopping the general treasury's raid on HIC funds should provide sufficient resources for this purpose. Pdf versions could be easily emailed to any consumer who calls or otherwise contacts the agency.

Thank you again for the opportunity to comment on this important issue. Again, we offer to meet with you and your staff to go over any of the comments we have provided and to discuss how better regulation of our industry and better protection of consumers can be accomplished.

Attachment

Home Builders & Remodelers Association of Connecticut, Inc.

Please Oppose Licensing Home Improvement Contractors: The Wrong Solution to a Multi-Layered Problem

Licensing the huge home improvement contractor (HIC) industry would be unworkable and not solve the issues consumers have with HIC projects.

- **Background:**
 - Most contractors are reputable and try to do good quality work for their customers.
 - There are ample voluntary opportunities to attend seminars, conferences and trade shows to learn and improve one's skills, and obtain certifications to set yourself apart from the competition.
 - The number of complaints about HICs at the DCP is large compared to other businesses, but the percentage of complaints relative to the huge scope of the home improvement industry (>35,000 HICs; >250,000 projects/yr) is very small (< 1%).
- **No amount of licensing and testing can solve the vast majority of complaints against contractors, which are based on workmanship issues, and communication issues (i.e., the contractor and consumer had different expectations about the job; not starting or finishing a job as scheduled). In addition, fraud (e.g., running away with a deposit, leaving a job after getting partial or full payment) cannot be solved by any level of licensing.**
- **The proponents' cited building code violations and lack of young people entering the business as reasons to adopt licensing. These arguments suggest we need tighter building code enforcement and greater resources spent on construction workforce development in our technical and other schools. We'd support these efforts.**
- **The proponents want a license to "assure the public of competency" and make comparisons to electricians, plumbers and HVAC licensed trades. But these trades undergo four-year apprenticeships, including thousands of hours of education plus on-the-job training to obtain their licenses. Thus, a 6, 12 or even 20 hour HIC training curriculum would provide the public a very low level of – and, worse, a false – assurance of competency.**
- **The proponents also argue that the fear of losing a license, versus losing a registration, because of the extra expense and time to obtain a license, will work on contractors such that a licensed HIC will not risk doing a bad job. But, losing the ability to legally perform as a HIC, i.e., losing an HIC license or HIC registration, effectively puts you out of business. The extra cost and time to go to some classes and take a test pales in comparison to the risk of being put out of business by the state.**
- **Licensing and testing contractors will legitimize the marginal contractor (i.e., the poor workman who can score 70% to pass a test), while imposing more regulatory burdens and costs on reputable contractors. Home improvement projects often require many different construction skills and many HICs do it all – so how many different licenses would be required by some firms? And, HICs already pay into the HIC guaranty fund, so how much more would a cash bond cost, and why? And, are such bonds available at a reasonable cost?**
- **Reducing competition in an industry, as called for by some contractors, is not a legitimate use of a licensing program. And, all licensing programs create barriers to entry to a business.**
- **Licensing HICs could produce a huge fiscal note adversely impacting DCP's budget.**

[Alternatives to Licensing We Recommend \(see reverse\):](#)

"Building Connecticut's Economy, Communities and Better Lives with Advocacy and Knowledge that Solves our Member's Problems."

Alternatives to HIC Licensing:

- **Stronger enforcement and education of consumers about the current HIC registration act will help to solve complaint problems in this industry. The legislature should specifically authorize DCP to educate consumers about the requirements of the HIC registration law and raise the amount of funds diverted to the agency's enforcement fund for this purpose. Education is the first line of defense for effective enforcement.**
- **Repeal the raid of the HIC guaranty fund, which all contractors pay into, by the general treasury that deprives DCP of the enforcement & education resources it needs.**
- **Raise the \$15,000 cap on a consumer's use of the guaranty fund to provide more protection to consumers who cannot satisfy a larger judgment against a contractor.**
- **Authorize an industry specific complaint form and new related database in order to better define consumer issues with our industry. Once better data is collected, only then can we develop better solutions.**
- **Provide statutory recognition of nationally-accepted, industry voluntary designations that signify certain remodelers have attained higher experience and education levels to help consumers choose the very best. Do the same for Connecticut based designations developed by the CT Institute of Professional Builders and Remodelers, Inc. (a 501(c)(3) subsidiary wholly owned by the HBRA of Connecticut).**
- **Address building code enforcement issues raised by the proponents of licensing. Building officials should be inspecting home construction at certain phases of construction in all cases where a permit is required. If they are not, no amount of contractor licensing will correct code violations.**
- **Address issues related to workforce development by reinvesting in our technical schools and community colleges to create construction curriculum. The HBRA of CT did just that through a \$300,000 US Labor Dept. grant under which we created a construction curriculum at Quinebaug Community College. Unfortunately, the college deleted the program in 2012.**