

CHAPTER 399a*

NEW HOME CONSTRUCTION CONTRACTORS

*Legislature did not intend for noncompliant new home construction contracts to be deemed invalid or unenforceable. 278 C. 237.

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Sec. 20-417a. Definitions. As used in this section and sections 20-417b to 20-417j, inclusive:

- (1) "Certificate" means a certificate of registration issued under section 20-417b;
- (2) "Commissioner" means the Commissioner of Consumer Protection or any person designated by the commissioner to administer and enforce this section and sections 20-417b to 20-417j, inclusive;
- (3) "Contract" means any agreement between a new home construction contractor and a consumer for the construction or sale of a new home or any portion of a new home prior to occupancy;
- (4) "Engage in the business" means that the person engages in the business for the purpose of compensation or profit;
- (5) "New home construction contractor" means any person who contracts with a consumer to construct or sell a new home or any portion of a new home prior to occupancy;
- (6) "New home" means any newly constructed (A) single-family dwelling unit, (B) dwelling consisting of not more than two units, or (C) unit, common element or limited common element in a condominium, as defined in section 47-68a, or in a common interest community, as defined in section 47-202;
- (7) "Person" means one or more individuals, partnerships, associations, corporations, limited liability companies, business trusts, legal representatives or any organized group of persons;

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

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

(P.A. 99-246, S. 1; P.A. 00-132, S. 1, 6; 00-196, S. 62, 66; P.A. 01-195, S. 83, 181; P.A. 03-167, S. 1; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1; 04-257, S. 94; P.A. 06-73, S. 1.)

History: P.A. 00-132 redefined "contract" in Subdiv. (3), added new Subdiv. (4) defining "engage in the business", redesignated former Subdivs. (4) to (7) as Subdivs. (5) to (8), redefined "new home construction contractor" in Subdiv. (5), "new home" in Subdiv. (6), and "consumer" in Subdiv. (8), and added new Subdiv. (9) defining "completion", effective May 26, 2000; P.A. 00-196 made a technical change in Subdiv. (1), effective June 1, 2000; P.A. 01-195 made a technical change in Subdiv. (6), effective July 11, 2001; P.A. 03-167 redefined "contract" in Subdiv. (3) and "consumer" in Subdiv. (8); June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 04-257 made a technical change in Subdiv. (3), effective July 1, 2004; P.A. 06-73 replaced references to "sections 20-417b to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417b to 20-417j, inclusive", where appearing, and made technical changes, effective May 30, 2006 (Revisor's note: In the introductory language and in Subdiv. (2), the comma following the words "this section" was replaced editorially by the Revisors with the word "and" for grammatical accuracy).

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Sec. 20-417b. Registration of contractors required. Application. Fees. Renewal. (a) No person shall engage in the business of new home construction or hold himself or herself out as a new home construction contractor unless such person has been issued a certificate of registration by the commissioner in accordance with the provisions of sections 20-417a to 20-417j, inclusive. No new home construction contractor shall be relieved of responsibility for the conduct and acts of its agents, employees or officers by reason of such new home construction contractor's compliance with the provisions of sections 20-417a to 20-417j, inclusive.

(b) Any person seeking a certificate of registration shall apply to the commissioner, in writing, on a form provided by the commissioner. The application shall include (1) the applicant's name, business street address and business telephone number, (2) the identity of the insurer that provides the applicant with insurance coverage for liability, (3) if such applicant is required by any provision of the general statutes to have workers' compensation coverage, the identity of the insurer that provides the applicant with such workers' compensation coverage, and (4) if such applicant is required by any provision of the general statutes to have an agent for service of process, the name and address of such agent. Each such application shall be accompanied by a fee of two hundred forty dollars, except that no such application fee shall be required if such person has paid the registration fee required under section 20-421 during any year in which such person's registration as a new home construction contractor would be valid.

(c) Certificates issued to new home construction contractors shall not be transferable or assignable.

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

(e) All certificates issued under the provisions of this chapter shall expire biennially. The fee for renewal of a certificate shall be the same as charged for the original application.

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

(P.A. 99-246, S. 2; P.A. 00-132, S. 3, 6; P.A. 01-195, S. 84, 181; P.A. 03-19, S. 54; P.A. 06-73, S. 2-4; June Sp. Sess. P.A. 09-3, S. 258; P.A. 13-196, S. 11.)

History: P.A. 00-132 amended Subsec. (b) to change "residence or business address" to "business street address", to delete provision re errors and omissions and to add application requirements re workers' compensation coverage and agent for service of process, and amended Subsec. (d) to add provision re when renewal fee is not due, effective May 26, 2000; P.A. 01-195 made technical changes in Subsecs. (a) and (d), effective July 11, 2001; P.A. 03-19 made a technical change in Subsec. (b)(1), effective May 12, 2003; P.A. 06-73 replaced references to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive", where appearing, amended Subsec. (d) to delete exception under Sec. 20-417i(c) to amount of renewal fee and amended Subsec. (f) to replace "contractor" with "new home construction contractor", effective May 30, 2006; June Sp. Sess. P.A. 09-3 amended Subsec. (b) to increase application fee from \$120 to \$240; P.A. 13-196 amended Subsec. (e) by replacing provision re certificate not to be restored unless renewed not later than 1 year after expiration with provisions re certificates to expire biennially and renewal fee to be same as charged for original application, effective June 21, 2013.

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Sec. 20-417c. Revocation, suspension or refusal to issue or renew registration. The commissioner may revoke, suspend, or refuse to issue or renew any certificate issued pursuant to sections 20-417a to 20-417j, inclusive, or place a registrant on probation or issue a letter of reprimand after notice and hearing in accordance with the provisions of chapter 54 concerning contested cases if it is shown that the holder of such certificate has: (1) Failed to comply with any provision of sections 20-417a to 20-417j, inclusive, or any regulation adopted pursuant to said sections; (2) obtained the certificate through fraud or misrepresentation; (3) engaged in conduct of a character likely to mislead, deceive or defraud the public or the commissioner; (4) engaged in any untruthful or misleading advertising; (5) failed to reimburse the New Home Construction Guaranty Fund established pursuant to section 20-417i for any moneys paid to a consumer pursuant to said section; (6) engaged in an unfair or deceptive business practice under subsection (a) of section 42-110b; (7) failed to timely complete any task, as specified in a written contract of sale; (8) failed to remedy any violation of any provision of sections 47-116 to 47-121, inclusive, or any regulation adopted pursuant to said sections; (9) failed to remedy any violation of any provision of the State Building Code; or (10) if applicable, failed to maintain its certificate of good standing issued by the office of the Secretary of the State.

(P.A. 99-246, S. 3; P.A. 06-73, S. 5.)

History: P.A. 06-73 replaced references to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive", where appearing, and made technical changes, effective May 30, 2006.

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Sec. 20-417d. Copy of certificate and written disclosure notice to be provided to consumers. Advertising requirements. Contact by prospective consumers. Prohibited acts. (a) A new home construction contractor shall (1) prior to entering into a contract with a consumer for new home construction, provide to the consumer a copy of the new home construction contractor's certificate of registration and a written notice that (A) discloses that the certificate of registration does not represent in any manner that such contractor's registration constitutes an endorsement of the quality of such person's work or of such contractor's competency by the commissioner, (B)

advises the consumer to contact the Department of Consumer Protection to determine (i) if such contractor is registered in this state as a new home construction contractor, (ii) if any complaints have been filed against such contractor, and (iii) the disposition of any such complaints, (C) advises the consumer to request from such contractor a list of consumers of new homes constructed to completion by the contractor during the previous twenty-four months and to contact several individuals on the list to discuss the quality of such contractor's new home construction work, and (D) discloses each corporation, limited liability company, partnership, sole proprietorship or other legal entity, which is or has been a new home construction contractor under the provisions of this chapter or a home improvement contractor under the provisions of chapter 400, in which the owner or owners of the new home construction contractor providing the written notice required by this section are or have been a shareholder, member, partner or owner during the previous five years, (2) state in any advertisement, including any advertisement in a telephone directory, the fact that such contractor is registered, and (3) include such contractor's registration number in any such advertisement. The new home construction contractor, or his agent, shall also discuss with the consumer the installation of an automatic fire extinguishing system in a new home.

(b) A new home construction contractor shall include in every contract with a consumer a provision advising the consumer that the consumer may be contacted by such contractor's prospective consumers concerning the quality and timeliness of such contractor's new home construction work, unless the consumer advises such contractor, in writing, at the time the contract is executed, that the consumer prefers not to be contacted.

(c) The written notice required in subsection (a) of this section shall be in capital letters not less than ten-point bold face type, and may include a statement in substantially the following form:

**"NEW HOME CONSTRUCTION CONTRACTOR
REGISTRATION NOTICE**

A CERTIFICATE OF REGISTRATION AS A NEW HOME CONSTRUCTION CONTRACTOR DOES NOT REPRESENT IN ANY MANNER THAT THE CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION ENDORSES THE QUALITY OF THE CONTRACTOR'S NEW HOME CONSTRUCTION WORK OR THE CONTRACTOR'S COMPETENCY TO ENGAGE IN NEW HOME CONSTRUCTION.

ACCORDINGLY, YOU ARE ADVISED TO:

(1) REQUEST FROM THE CONTRACTOR A LIST OF CONSUMERS OF NEW HOMES CONSTRUCTED TO COMPLETION BY THE CONTRACTOR DURING THE PREVIOUS TWENTY-FOUR MONTHS,

(2) CONTACT SEVERAL INDIVIDUALS ON THE LIST TO DISCUSS THE QUALITY AND THE TIMELINESS OF THE CONTRACTOR'S NEW HOME CONSTRUCTION WORK, AND

(3) CONTACT THE DEPARTMENT OF CONSUMER PROTECTION TO VERIFY THE REGISTRATION INFORMATION PRESENTED BY THE CONTRACTOR AND TO ASCERTAIN THE CONTRACTOR'S COMPLAINT HISTORY WITH THE DEPARTMENT.

IN ADDITION, YOU ARE ADVISED TO DISCUSS WITH THE NEW HOME CONSTRUCTION CONTRACTOR:

(1) WHETHER THE CONTRACTOR HAS A CUSTOMER SERVICE POLICY AND IF SO, THE IDENTITY OF THE PERSON DESIGNATED TO ASSIST YOU IN RESOLVING ANY COMPLAINT ABOUT THE CONTRACTOR'S WORK,

(2) WHETHER THE CONTRACTOR WILL HOLD YOU HARMLESS FOR WORK PERFORMED BY ANY SUBCONTRACTOR HIRED BY THE CONTRACTOR, AND

(3) THE INSTALLATION OF AN AUTOMATIC FIRE EXTINGUISHING SYSTEM.

THIS NOTICE DOES NOT CONTAIN AN EXHAUSTIVE LIST OF THE INQUIRIES YOU SHOULD MAKE BEFORE CONTRACTING WITH A NEW HOME CONSTRUCTION CONTRACTOR. ADDITIONAL INFORMATION TO

ASSIST YOU IN YOUR SELECTION OF A NEW HOME CONSTRUCTION CONTRACTOR MAY BE OBTAINED BY CONTACTING THE CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION.”

(d) No person shall: (1) Present, or attempt to present as such person’s own, the certificate of another; (2) knowingly give false evidence of a material nature to the commissioner for the purpose of procuring a certificate; (3) represent such person falsely as, or impersonate, a registered new home construction contractor; (4) use or attempt to use a certificate which has expired or been suspended or revoked; (5) engage in the business of a new home construction contractor or hold himself or herself out as a new home construction contractor without having a current certificate of registration under sections 20-417a to 20-417j, inclusive; (6) represent in any manner that such person’s registration constitutes an endorsement of the quality of such person’s work or of such person’s competency by the commissioner; or (7) fail to refund a deposit paid to a new home construction contractor not later than ten days after a written request mailed or delivered to the new home construction contractor’s last known address, if (A) the consumer has complied with the terms of the written contract up to the time of the request, (B) no substantial portion of the contracted work has been performed at the time of the request, (C) more than thirty days has elapsed since the starting date specified in the written contract or more than thirty days has elapsed since the date of the contract if such contract does not specify a starting date, and (D) the new home construction contractor has failed to provide a reasonable explanation to the consumer concerning such contractor’s failure to perform a substantial portion of the contracted work. For purposes of this subdivision, “substantial portion of the contracted work” includes, but is not limited to, work performed by the new home construction contractor to (i) secure permits and approvals, (ii) redraft plans or obtain engineer, architect, surveyor or other approvals for changes requested by the consumer or made necessary by site conditions discovered after the contract is executed, (iii) schedule site work or arrange for other contractors to perform services related to the construction of the consumer’s new home, and (iv) do any other work referred to in the contract as a “substantial portion of the contracted work”.

(P.A. 99-246, S. 4; P.A. 00-132, S. 4, 6; P.A. 01-195, S. 85, 181; June 30 Sp. Sess. P.A. 03-3, S. 93; June 30 Sp. Sess. P.A. 03-6, S. 146(d); P.A. 04-169, S. 17; 04-189, S. 1; P.A. 06-73, S. 6; P.A. 09-18, S. 1.)

History: P.A. 00-132 amended language in Subsecs. (a)(1)(C) and (c)(1) providing for disclosure re most recently constructed homes, effective May 26, 2000; P.A. 01-195 made technical changes in Subsec. (d), effective July 11, 2001; June 30 Sp. Sess. P.A. 03-3 amended Subsecs. (a) and (c) by adding provisions re discussion of installation of automatic fire extinguishing system; June 30 Sp. Sess. P.A. 03-6 and P.A. 04-169 replaced Department of Consumer Protection with Department of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 06-73 amended Subsecs. (a)(1)(C) and (c)(1) to replace “a list of consumers of the last twelve new homes constructed to completion by the contractor during the previous twenty-four months, or if the contractor has not constructed at least twelve new homes to completion during the previous twenty-four months, then a list of all consumers for whom the contractor has constructed a new home to completion during the previous twenty-four months” with “a list of consumers of new homes constructed to completion by the contractor during the previous twenty-four months”, amended Subsec. (d)(5) to replace “sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421” with “sections 20-417a to 20-417j, inclusive,” and made a technical change in Subsec. (d)(4), effective May 30, 2006; P.A. 09-18 amended Subsec. (a)(1) by adding Subpara. (D) re contractor legal entity disclosure, effective July 1, 2009.

Subsec. (d):

Subdiv. (5): Contractor’s failure to obtain certificate of registration before signing of contract did not render contract unenforceable. 278 C. 237.

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Sec. 20-417e. Criminal penalty. Treble damages. (a) In addition to any other remedy provided for in sections 20-417a to 20-417j, inclusive, any person who violates any provision of subsection (d) of section 20-417d shall

be guilty of a class A misdemeanor. Notwithstanding subsection (d) or (e) of section 53a-29 or section 54-56e, if the court determines that a new home construction contractor cannot fully repay any victim of the violations committed by such contractor within the period of probation established in subsection (d) or (e) of section 53a-29 or section 54-56e, the court may impose probation for a period of not more than five years.

(b) Any person who violates the provisions of subdivision (7) of subsection (d) of section 20-417d shall be liable for treble damages.

(P.A. 99-246, S. 5; P.A. 00-132, S. 5, 6; P.A. 03-167, S. 2; P.A. 06-73, S. 7; P.A. 08-102, S. 3.)

History: P.A. 00-132 added language re treble damages for violation of Sec. 20-417d(d)(7), effective May 26, 2000; P.A. 03-167 deleted exception for violation of Sec. 20-417d(d)(7); P.A. 06-73 designated existing provisions as Subsecs. (a) and (b) and amended Subsec. (a) to replace reference to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive," and make technical changes, effective May 30, 2006; P.A. 08-102 amended Subsec. (a) to replace references to "subsection (d) of section 53a-29" with "subsection (d) or (e) of section 53a-29".

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Sec. 20-417f. Civil penalty. (a) The commissioner may, after notice and hearing in accordance with the provisions of chapter 54, impose a civil penalty on any person who (1) engages in or practices the work for which a certificate of registration is required by sections 20-417a to 20-417j, inclusive, without having first obtained such a certificate of registration, (2) engages in or practices any of the work for which a certificate of registration is required by sections 20-417a to 20-417j, inclusive, after the expiration of such person's certificate of registration, or (3) violates any of the provisions of sections 20-417a to 20-417j, inclusive, or the regulations adopted pursuant to said sections.

(b) Such civil penalty shall not exceed (1) five hundred dollars for a first violation, (2) seven hundred fifty dollars for a second violation occurring not more than three years after a prior violation, and (3) one thousand five hundred dollars for a third or subsequent violation occurring not more than three years after a prior violation.

(c) Any civil penalty collected pursuant to this section shall be deposited in the consumer protection enforcement account established in section 21a-8a.

(P.A. 99-246, S. 6; P.A. 06-73, S. 8.)

History: P.A. 06-73 designated existing provisions as Subsecs. (a), (b) and (c), amended Subsec. (a) to insert Subdiv. designators, replace reference to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive," where appearing, and make technical changes and amended Subsecs. (b) and (c) to make technical changes, effective May 30, 2006.

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Sec. 20-417g. Unfair trade practice. A violation of any of the provisions of sections 20-417a to 20-417j, inclusive, shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b.

(P.A. 99-246, S. 7; P.A. 06-73, S. 9.)

History: P.A. 06-73 replaced reference to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive," effective May 30, 2006.

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Sec. 20-417h. Building and construction permits. No new home construction contractor shall commence work unless each applicable building or construction permit has been obtained under the general statutes or local ordinances. No building official shall issue a building or construction permit to a new home construction contractor unless such contractor has presented to such building official the certificate of registration and registration number of such contractor.

(P.A. 99-246, S. 8; P.A. 06-73, S. 10.)

History: P.A. 06-73 rephrased language and made technical changes, effective May 30, 2006.

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Sec. 20-417i. New Home Construction Guaranty Fund. (a) The commissioner shall establish and maintain the New Home Construction Guaranty Fund.

(b) Each person who receives a certificate pursuant to sections 20-417a to 20-417j, inclusive, shall pay a fee of four hundred eighty dollars biennially to the fund. Such fee shall be payable with the fee for an application for a certificate or renewal of a certificate.

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

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

(d) Beginning October 1, 2000, whenever a consumer obtains a court judgment against any new home construction contractor holding a certificate or who has held a certificate under sections 20-417a to 20-417j, inclusive, within the past two years of the date of entering into the contract with the consumer, for loss or damages sustained by reason of any violation of the provisions of sections 20-417a to 20-417j, inclusive, by a person holding a certificate under said sections, such consumer may, upon the final determination of, or expiration of time for taking, an appeal in connection with any such judgment, apply to the commissioner for an order directing payment out of the New Home Construction Guaranty Fund of the amount not exceeding thirty thousand dollars unpaid upon the judgment for actual damages and costs taxed by the court against such contractor, exclusive of punitive damages. The application shall be made on forms provided by the commissioner and shall be accompanied by a certified copy of the court judgment obtained against the new home construction contractor together with a notarized affidavit, signed and sworn to by the consumer, affirming that the consumer has: (1) Complied with all the requirements of this subsection; (2) obtained a judgment, stating the amount of the judgment and the amount owing on the judgment at the date of application; and (3) made a good faith effort to satisfy any such judgment in accordance with the provisions of chapter 906 which effort may include causing to be issued a writ of execution upon such judgment, but the officer executing the same has made a return showing that no bank accounts or personal property of such contractor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under the execution, was insufficient to satisfy the actual damage portion of the judgment or stating the amount realized and the balance remaining due on the judgment after application on the judgment of the amount realized, except that the requirements of this subdivision shall not apply to a judgment obtained by the consumer in small claims court. A true and attested copy of such executing officer's return, when required, shall be attached to such application and affidavit. Whenever the consumer satisfies the commissioner or the commissioner's designee that it is not practicable to comply with the requirements of subdivision (3) of this subsection and that the consumer has taken all reasonable steps to collect the amount of the judgment or the unsatisfied part of the

judgment and has been unable to collect the same, the commissioner or the commissioner's designee may, in the commissioner's or the commissioner's designee's discretion, dispense with the necessity for complying with such requirement. No application for an order directing payment out of the fund shall be made later than two years from the final determination of, or expiration of time for taking, an appeal of such court judgment, and no such application shall be for an amount in excess of thirty thousand dollars.

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

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

(g) Before the commissioner may issue any order directing payment out of the New Home Construction Guaranty Fund to a consumer pursuant to subsection (e) or (f) of this section, the commissioner shall first notify the new home construction contractor of the consumer's application for an order directing payment out of the fund and of the new home construction contractor's right to a hearing to contest the disbursement in the event that such contractor has already paid the consumer. Such notice shall be given to the new home construction contractor not later than fifteen days from the receipt by the commissioner of the consumer's application for an order directing payment out of the fund. If the new home construction contractor requests a hearing, in writing, by certified mail not later than fifteen days from receipt of the notice from the commissioner, the commissioner shall grant such request and shall conduct a hearing in accordance with the provisions of chapter 54. If the commissioner does not receive a written request for a hearing by certified mail from the new home construction contractor on or before the fifteenth day from the contractor's receipt of such notice, the commissioner shall conclude that the consumer has not been paid, and the commissioner shall issue an order directing payment out of the fund for the amount not exceeding thirty thousand dollars unpaid upon the judgment for actual damages and costs taxed by the court against the new home construction contractor, exclusive of punitive damages, or for the amount not exceeding thirty thousand dollars unpaid upon the order of restitution.

(h) The commissioner or the commissioner's designee may proceed against any new home construction contractor holding a certificate or who has held a certificate under sections 20-417a to 20-417j, inclusive, within the past two years of the effective date of entering into the contract with the consumer, for an order of restitution arising from loss or damages sustained by any consumer as a result of any violation of the provisions of said sections 20-417a to 20-417j, inclusive. Any such proceeding shall be held in accordance with the provisions of chapter 54. In the course of such proceeding, the commissioner or the commissioner's designee shall decide whether to (1) exercise the powers specified in section 20-417c, (2) order restitution arising from loss or damages sustained by any consumer as a result of any violation of the provisions of sections 20-417a to 20-417j, inclusive, and (3) order payment out of the New Home Construction Guaranty Fund. Notwithstanding the provisions of chapter 54, the decision of the commissioner or the commissioner's designee shall be final with respect to any proceeding to order payment out of the fund and the commissioner and the commissioner's designee are exempted from the requirements of chapter 54 as such requirements relate to an appeal from any such decision. The commissioner or the commissioner's designee may hear complaints of all consumers

submitting claims against a single new home construction contractor in one proceeding.

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

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

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

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

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

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

(P.A. 99-246, S. 9; May 9 Sp. Sess. P.A. 02-1, S. 126; P.A. 06-73, S. 11; P.A. 14-127, S. 3.)

History: May 9 Sp. Sess. P.A. 02-1 divided Subsec. (c) into subdivisions, adding Subdivs. (2) and (3) re payments received in the fiscal years commencing July 1, 2002, July 1, 2003, and thereafter, effective July 1, 2002; P.A. 06-73 replaced references to "sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-421" with "sections 20-417a to 20-417j, inclusive," where appearing, amended Subsec. (c) to delete former Subdivs. (1) and (2) re disposition of payments received for fiscal years commencing prior to July 1, 2002, and for the fiscal year commencing July 1, 2002, respectively, and redesignate existing Subdivs. (3) and (4) as Subdivs. (1) and (2), respectively, amended Subsec. (d) to rephrase language, amended Subsec. (e) to reposition language re exception under Subsec. (d), amended Subsec. (f) to insert Subdiv. designators and replace reference to Sec. 20-417d with Sec. 20-417e in Subdiv. (3), amended Subsec. (h) to insert Subdiv. designators and replace reference to Sec. 20-417b with Sec. 20-417c in Subdiv. (1), amended Subsec. (i) to rephrase language and made technical changes throughout section, effective May 30, 2006; P.A. 14-127 amended Subsec. (d) by changing "real" to "personal" re property of contractor to be levied upon in satisfaction of judgment and adding "or the

commissioner's designee's" re discretion to dispense with necessity for complying with requirement, effective July 1, 2014.

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Sec. 20-417j. Persons exempted from registration requirement. Reimbursement of fees. (a) Sections 20-417a to 20-417i, inclusive, do not apply to any of the following persons or organizations: (1) Any person holding a current license as a real estate broker or salesperson issued pursuant to chapter 392, provided such person engages only in work for which such person is licensed under chapter 392; (2) any person licensed or otherwise authorized under chapter 412 to sell or place a mobile manufactured home, as defined in section 21-64, upon a mobile manufactured home park or mobile manufactured space or lot, both as defined in section 21-64, provided such person engages only in work for which such person is licensed or otherwise authorized under chapter 412; (3) any other person holding a professional or occupational license, registration or certificate issued pursuant to the general statutes, provided such person engages only in the work for which such person is licensed, registered or certified; and (4) any new home construction contractor who enters into one or more new home construction contracts related to the same new home when such contract or contracts in the aggregate with respect to that home has a total price for work or services that is less than three thousand five hundred dollars.

(b) The commissioner shall reimburse the amount of the fees paid for a certificate issued under section 20-417b and the amount of fees paid into the New Home Construction Guaranty Fund pursuant to section 20-417i if such person for whom reimbursement is requested (1) is a person exempt from registration as a new home construction contractor pursuant to subsection (a) of this section, and (2) makes such request in writing to the Department of Consumer Protection on a form supplied by the department and such request is received by the department on or before June 30, 2001.

(P.A. 00-132, S. 2, 6; P.A. 00-196, S. 63, 66; June 30 Sp. Sess. P.A. 03-6, S. 146(d); P.A. 04-169, S. 17; 04-189, S. 1; P.A. 06-73, S. 12.)

History: P.A. 00-132 effective May 26, 2000 (Revisor's note: Sec. 2 of P.A. 00-128, also effective May 26, 2000, duplicated the substantive provisions of Subsec. (a)(3) of this section and therefore was not codified by the Revisors but remains in full force and effect according to its terms); P.A. 00-196 made a technical change in Subsec. (b), effective June 1, 2000; June 30 Sp. Sess. P.A. 03-6 and P.A. 04-169 replaced Department of Consumer Protection with Department of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 06-73 amended Subsec. (a) to delete reference to "subsection (b) of section 20-421" in prefatory language and amended Subsec. (b)(1) to make a technical change, effective May 30, 2006.

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Secs. 20-417k to 20-417z. Reserved for future use.

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