

CHAPTER 400*

HOME IMPROVEMENT CONTRACTORS

*Cited. 200 C. 713, 714. Home Improvement Act (Sec. 20-418 et seq.) cited. 209 C. 185—188, 190, 191. Home improvement act, Sec. 20-418 et seq., cited. 215 C. 316, 317, 320, 322, 323, 327; Id., 336—340, 342, 343; Id., 345, 348; Id., 350, 351, 353, 354. Cited. 224 C. 231, 232. Home improvement act, Secs. 20-418—20-432, cited. Id. Home improvement act, Sec. 20-418 et seq. cited. Id., 240, 242—252. Home improvement act (HIA), Sec. 20-418 et seq. cited. 228 C. 574—579. Home Improvement Act cited. 231 C. 707, 727. Home Improvement Act (HIA) Sec. 20-418 et seq. cited. 232 C. 666—668, 671, 672, 674—682. Home Improvement Act (HIA) Sec. 20-418 et seq. cited. 237 C. 123, 134, 135. Home Improvement Act (HIA) Sec. 20-418 et seq. cited. 240 C. 58. Cited. Id., 654. Home Improvement Act, Sec. 20-418 et seq. cited. Id. Home Improvement Act is for benefit of consumer and compliance with its terms may be waived by the consumer, either explicitly or by nonassertion. 247 C. 242.

Home Improvement Act cited. 13 CA 194, 195, 197, 199—205. Contract between contractor and subcontractor not within purview of the act. Id. Home improvement act cited. 18 CA 463—466; Id., 581, 583, 586, 587, 589; 20 CA 625, 626, 628, 629. Home improvement act cited. 24 CA 223, 224, 226. Home improvement act, Sec. 20-418 et seq. cited. 27 CA 162—168, 170, 171. Home improvement act, Sec. 20-418 et seq. cited. 33 CA 294, 296, 300. Home Improvement Act, Sec. 20-418 et seq. cited. 35 CA 253, 254. Home Improvement Act (HIA) Sec. 20-418 et seq. cited. 38 CA 420, 430—433. Home Improvement Act, Secs. 20-418—20-432 cited. 40 CA 351—354, 356, 358. Home Improvement Act cited. 41 CA 476, 478. Home Improvement Act, Sec. 20-418 et seq. cited. 42 CA 124. Cited. 45 CA 586. Home Improvement Act, Sec. 20-418 et seq. cited. Id.; Id., 743.

Home Improvement Act cited. 44 CS 274.

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Sec. 20-418. Short title: Home Improvement Act. This chapter shall be known and may be cited as the "Home Improvement Act".
(P.A. 79-606, S. 1, 14.)

Sec. 20-419. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Certificate" means a certificate of registration issued under section 20-422.
- (2) "Commissioner" means the Commissioner of Consumer Protection or any person designated by the commissioner to administer and enforce this chapter.
- (3) "Contractor" means any person who owns and operates a home improvement business or who undertakes, offers to undertake or agrees to perform any home improvement. "Contractor" does not include a person for whom the total cash price of all of his home improvement contracts with all of his customers does not exceed one thousand dollars during any period of twelve consecutive months.
- (4) "Home improvement" includes, but is not limited to, the repair, replacement, remodeling, alteration, conversion, modernization, improvement, rehabilitation or sandblasting of, or addition to any land or building or that portion thereof which is used or designed to be used as a private residence, dwelling place or residential rental property, or the construction, replacement, installation or improvement of driveways, swimming pools, porches, garages, roofs, siding, insulation, solar energy systems, flooring, patios, landscaping, fences, doors and windows and waterproofing in connection with such land or building or that portion thereof which is used or designed to be used as a private residence, dwelling place or residential rental property, in which the total cash price for all work agreed upon between the contractor and owner exceeds two hundred dollars. "Home improvement" does not include: (A) The construction of a new home; (B) the sale of goods by a seller who neither arranges to perform nor performs, directly or indirectly, any work or labor in connection with the installation or application of the goods or materials; (C) the sale of goods or services furnished for commercial or business use or for resale, provided commercial or business use does not include use as residential rental property; (D) the sale of appliances, such as stoves, refrigerators, freezers, room air conditioners and others which are designed for and are easily removable from the premises without material alteration thereof; and (E) any work performed without compensation by the owner on his own private residence or residential rental property.
- (5) "Home improvement contract" means an agreement between a contractor and an owner for the performance of a home improvement.
- (6) "Owner" means a person who owns or resides in a private residence and includes any agent thereof. An owner of a private residence shall not be required to reside in such

residence to be deemed an owner under this subdivision.

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

(8) "Private residence" means a single family dwelling, a multifamily dwelling consisting of not more than six units, or a 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.

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

(10) "Residential rental property" means a single family dwelling, a multifamily dwelling consisting of not more than six units, or a 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, which is not owner occupied.

(P.A. 79-606, S. 2, 14; P.A. 88-269, S. 1; P.A. 91-325, S. 4; P.A. 93-215, S. 2; P.A. 95-79, S. 68, 189; P.A. 98-3, S. 61.)

History: P.A. 88-269 redefined "home improvement" to include sandblasting, redefined "person" to delete reference to firms and companies, redefined "private residence" to increase allowable units from four to six, and redefined "salesman" to delete the reference to contracts being made outside of a place of business; P.A. 91-325 redefined "private residence" to include a "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"; P.A. 93-215 expanded the definition of "home improvement" in Subdiv. (4) by including repair work done to residential rental property and excluding work performed without compensation by an owner on his private residence or residential rental property, clarified the definition of "owner" in Subdiv. (6) and added Subdiv. (10) defining "residential rental property"; P.A. 95-79 redefined "person" to include a limited liability company, effective May 31, 1995; P.A. 98-3 made technical changes.

Cited. 232 C. 666, 671.

Cited. 13 CA 194, 197. Cited. 18 CA 463, 466. Cited. Id., 581, 588.

Subdiv. (1):

Cited. 19 CA 1, 4.

Subdiv. (3):

Cited. 200 C. 713, 714.

Cited. 13 CA 194, 200, 201.

Subdiv. (4):

Cited. 200 C. 713, 714. Cited. 232 C. 666, 667, 676, 677. Subpara. (A) cited. Id., 666, 676—678. Cited. 240 C. 58.

Cited. 13 CA 194, 200, 201. Cited. 18 CA 463, 466. Cited. 45 CA 586. Subpara. (E) cited. Id. Cited. Id., 743.

Subdiv. (5):

Cited. 200 C. 713, 714. Cited. 232 C. 666, 676. Home Improvement Act not intended to apply to the transaction between a subcontractor and a homeowner because in such circumstance there is no "home improvement contract" as that term is defined in the act. 249 C. 155.

Cited. 45 CA 586.

Subdiv. (6):

Cited. 194 C. 129, 137. Cited. 200 C. 713, 714. Cited. 224 C. 231, 235. Cited. 240 C. 58. Cited. 45 CA 586.

Subdiv. (7):

Cited. 40 CA 351, 352, 355, 357.

Sec. 20-420. Registration of contractors and salesmen required. (a) No person shall hold oneself out to be a contractor or salesperson without first obtaining a certificate of registration from the commissioner as provided in this chapter, except that an individual or partner, or officer or director of a corporation registered as a contractor shall not be required to obtain a salesperson's certificate. No certificate shall be given to any person who holds oneself out to be a contractor that performs radon mitigation unless such contractor provides evidence, satisfactory to the commissioner, that the contractor has attended a program approved by the Commissioner of Public Health and received a passing score on an examination approved by said commissioner.

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

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

(P.A. 79-606, S. 3, 14; P.A. 88-269, S. 2; P.A. 90-321, S. 3; P.A. 98-3, S. 62; P.A. 99-74, S. 2, 3.)

History: P.A. 88-269 added Subsec. (c) providing no individual shall act as a home improvement salesman for an unregistered contractor; P.A. 90-321 added provisions concerning contractors that perform radon work; P.A. 98-3 made a technical change in Subsec. (a); P.A. 99-74 amended Subsec. (a) to make gender neutral changes and to require radon mitigation contractors to attend a program approved by the Commissioner of Public Health and receive a passing score on an examination approved by said commissioner, effective May 27, 1999.

Cited. 13 CA 194, 199, 201. Cited. 20 CA 625, 626.

Subsec. (a):

Cited. 13 CA 194, 200, 201.

Sec. 20-420a. Procedures for registration. (a) No corporation shall perform or offer to perform home improvements in this state unless such corporation has been issued a certificate of registration by the commissioner. No such corporation shall be relieved of responsibility for the conduct and acts of its agents, employees or officers by reason of its compliance with the provisions of this section, nor shall any individual contractor be relieved of responsibility for home improvements performed by reason of his employment or relationship with such corporation.

(b) A qualifying corporation desiring a certificate of registration shall apply to the commissioner, in writing, on a form provided by the commissioner. The application shall state the name and address of such corporation, the city or town and the street and number where such corporation is to maintain its principal place of business in this state, the names and addresses of officers, a statement that one or more individuals who shall

direct, supervise or perform home improvements for such corporation are registered home improvement contractors and such other information as the commissioner may require.

(c) Any certificate issued by the commissioner pursuant to this section may be revoked or suspended by the commissioner 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 not conformed to the requirements of this chapter, that the certificate was obtained through fraud or misrepresentation or that the contractor of record employed by or acting on behalf of such corporation has had his certificate of registration suspended or revoked by the commissioner. The commissioner may refuse to issue or renew a certificate if any facts exist which would entitle the commissioner to suspend or revoke an existing certificate.

(d) Each such corporation shall file with the commissioner upon application or renewal thereof a designation of an individual or individuals registered to perform home improvements in this state who shall direct or supervise the performance of home improvements by such corporation in this state. Such corporation shall notify the commissioner of any change in such designation within thirty days after such change becomes effective.

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

(P.A. 88-269, S. 3; P.A. 98-3, S. 63.)

History: P.A. 98-3 made technical changes.

Sec. 20-421. Application for registration. Fees. (a) 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 the applicant's name, residence address, business address, business telephone number and such other information as the commissioner may require.

(b) Each application for a certificate of registration as a home improvement contractor shall be accompanied by a fee of sixty dollars, except that no such application fee shall be required in any year during which such person has paid the registration fee required under section 20-417c or in any year in which such person's registration as a new home construction contractor is valid.

(c) Each application for a certificate of registration as a salesman shall be accompanied by a fee of sixty dollars.

(d) The application fee for a certificate of registration as a home improvement contractor acting solely as the contractor of record for a corporation, shall be waived, provided the contractor of record shall use such registration for the sole purpose of directing, supervising or performing home improvements for such corporation.

(P.A. 79-606, S. 4, 14; P.A. 88-269, S. 4; P.A. 89-251, S. 148, 203; P.A. 96-117, S. 1; P.A. 98-3, S. 64; P.A. 99-246, S. 10.)

History: P.A. 88-269 amended Subsec. (a) to include a business telephone number; P.A. 89-251 increased the fee for a home improvement contractor from thirty dollars to sixty

dollars and increased the fee for a salesman from thirty dollars to sixty dollars; P.A. 96-117 added Subsec. (d) re waiver of the application fee for a certificate of registration for the contractor of record; P.A. 98-3 made technical changes in Subsec. (a); P.A. 99-246 amended Subsec. (b) to specify conditions under which no application fee is required.

Sec. 20-422. Certificate of registration; when issued; refused; revoked; suspended.

Bond requirement. Upon receipt of a completed application and fee, the commissioner shall: (1) Issue and deliver to the applicant a certificate to engage in the business for which the application was made; or (2) refuse to issue the certificate. The commissioner may suspend, revoke or refuse to issue or renew any certificate issued under this chapter or may place a registrant on probation or issue a letter of reprimand or may require the posting of a bond meeting the specifications of section 20-426a as a condition for the issuance, renewal or reinstatement of a certificate of registration for any of the reasons stated in section 20-426. No application for the reinstatement of a certificate which has been revoked shall be accepted by the commissioner within one year after the date of such revocation.

(P.A. 79-606, S. 5, 14; P.A. 82-315, S. 1; P.A. 88-269, S. 5.)

History: P.A. 82-315 authorized conditional imposition of a bond; P.A. 88-269 included issuance in Subdiv. (2), authorized commissioner to place registrants on probation or to issue written reprimands and provided that no application for reinstatement can be made within one year of revocation.

Cited. 19 CA 1, 4.

Subdiv. (2):

Cited. 19 CA 1, 4.

Sec. 20-423. Hearing on denial of certificate. Subsequent application. (a) Upon refusal to issue or renew a certificate, the commissioner shall notify the applicant of the denial and of the applicant's right to request a hearing within ten days from the date of receipt of the notice of denial.

(b) If the applicant requests a hearing within such ten days, the commissioner shall give notice of the grounds for the commissioner's refusal and shall conduct a hearing concerning such refusal in accordance with the provisions of chapter 54 concerning contested cases.

(c) If the commissioner's denial of a certificate is sustained after such hearing, an applicant may make new application not less than one year after the date on which such denial was sustained.

(P.A. 79-606, S. 6, 14; P.A. 88-269, S. 6; P.A. 98-3, S. 65.)

History: P.A. 88-269 added Subsec. (c) concerning a one-year waiting period for reapplication after denial; P.A. 98-3 made technical changes.

Sec. 20-424. Investigations. Powers of commissioner. Injunctions. (a) The commissioner may conduct investigations and hold hearings on any matter under the provisions of this chapter. The commissioner may issue subpoenas, administer oaths,

compel testimony and order the production of books, records and documents. If any person refuses to appear, to testify or to produce any book, record, paper or document when so ordered, upon application of the commissioner, a judge of the Superior Court may make such order as may be appropriate to aid in the enforcement of this section.

(b) The Attorney General, at the request of the commissioner, is authorized to apply in the name of the state of Connecticut to the Superior Court for an order temporarily or permanently restraining and enjoining any person from violating any provision of this chapter.

(P.A. 79-606, S. 7, 14; P.A. 98-3, S. 66.)

History: P.A. 98-3 made a technical change in Subsec. (a).

Sec. 20-425. Transferred to Sec. 20-431.

Sec. 20-426. Revocation, suspension or refusal to issue or renew registration; grounds. (a) The commissioner may revoke, suspend or refuse to issue or renew any certificate of registration as a home improvement contractor or salesperson or place a registrant on probation or issue a letter of reprimand for: (1) Conduct of a character likely to mislead, deceive or defraud the public or the commissioner; (2) engaging in any untruthful or misleading advertising; (3) failing to reimburse the guaranty fund established pursuant to section 20-432 for any moneys paid to an owner pursuant to subsection (o) of section 20-432; (4) unfair or deceptive business practices; or (5) violation of any of the provisions of the general statutes relating to home improvements or any regulation adopted pursuant to any of such provisions. The commissioner may refuse to issue or renew any certificate of registration as a home improvement contractor or salesperson of any person subject to the registration requirements of chapter 969.

(b) The commissioner shall not revoke or suspend any certificate of registration or require the posting of a bond except upon notice and hearing in accordance with chapter 54.

(P.A. 79-606, S. 9, 14; P.A. 82-315, S. 2; P.A. 88-269, S. 7; 88-364, S. 107, 123; P.A. 94-68, S. 1; P.A. 98-3, S. 67; P.A. 01-155, S. 3.)

History: P.A. 82-315 amended Subsec. (b) to make provisions applicable to bond posting requirement; P.A. 88-269 amended Subsec. (a) to include refusal to issue or renew, to provide for probation and letters of reprimand and to add Subdiv. (3) regarding failure to reimburse the guaranty fund; P.A. 88-364 corrected an incorrect section number reference in public act 88-269; P.A. 94-68 amended Subsec. (a) by adding Subdiv. (4), authorizing disciplinary action against those engaging in unfair or deceptive business practices; P.A. 98-3 made technical changes in Subsec. (a) (Revisor's note: A reference in Subsec. (a) to "certificate or registration" was replaced editorially by the Revisors with "certificate of registration" to correct a clerical error originating in P.A. 88-269); P.A. 01-155 amended Subsec. (a) by making technical changes for purposes of gender neutrality and by adding provision re refusal to issue or renew certificate of any person subject to registration under chapter 969.

Sec. 20-426a. Posting of bond by contractor. (a) A bond required under section 20-422 shall run to the state of Connecticut for the use of the state and of any persons who may have a cause of action because of the failure of the contractor to comply with the provisions of this chapter and any regulation or order adopted or issued under this chapter and to account for all funds deposited with him. Such bond shall not be construed to require any surety to complete a home improvement contract entered into by the principal on the bond.

(b) Any person who may be damaged by the failure of a contractor to account for all funds deposited with the contractor may proceed on such bond against the obligor or surety thereon, or both, to recover damages.

(c) Such bond shall be in such form as the commissioner may require and shall be in the amount of fifteen thousand dollars. The commissioner may require the contractor to provide from time to time proof that the bond is in full force and effect.

(d) Any surety issuing a bond in compliance with this section, section 20-422, subsection (b) of section 20-426 and subsection (b) of section 20-427 shall notify the commissioner within thirty days after the expiration or termination of such bond that such bond has expired or terminated and has not been renewed or reissued.

(e) The bond required by this section may be released by the commissioner twelve months after the contractor ceases to be registered, if there are no claims pending against the bond.

(P.A. 82-315, S. 4; P.A. 02-82, S. 7.)

History: P.A. 02-82 amended Subsec. (c) by changing bond amount from ten thousand dollars to fifteen thousand dollars.

Sec. 20-427. Holder to exhibit and advertise certificate, when. Prohibited acts. Penalties. Certificates not transferable. Expiration. Renewal. Building permits. (a)

Each person engaged in making home improvements shall (1) exhibit his certificate of registration upon request by any interested party, (2) state in any advertisement the fact that he is registered, and (3) include his registration number in any advertisement.

(b) No person shall: (1) Present or attempt to present, as his 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 himself falsely as, or impersonate, a registered home improvement contractor or salesman, (4) use or attempt to use a certificate which has expired or which has been suspended or revoked, (5) offer to make or make any home improvement without having a current certificate of registration under this chapter, (6) represent in any manner that his registration constitutes an endorsement of the quality of his workmanship or of his competency by the commissioner, (7) employ or allow any person to act as a salesman on his behalf unless such person is registered as a home improvement salesman, or (8) fail to refund the amount paid for a home improvement within ten days of a written request mailed or delivered to the contractor's last known address, if no substantial portion of the contracted work has been performed at the time of the request and 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.

(c) In addition to any other remedy provided for in this chapter, (1) any person who

violates any provision of subsection (b) of this section, except subdivision (8), shall be guilty of a class B misdemeanor and (2) any person who violates the provisions of subdivision (8) of subsection (b) of this section shall be guilty of a class B misdemeanor if the home improvement that is offered or made has a total cash price of ten thousand dollars or less and shall be guilty of a class A misdemeanor if the home improvement that is offered or made has a total cash price of more than ten thousand dollars.

Notwithstanding subsection (d) of section 53a-29 or section 54-56e, if the court determines that a contractor cannot fully repay his victims within the period of probation established in subsection (d) of section 53a-29 or section 54-56e, the court may impose probation for a period of not more than five years. A violation of any of the provisions of this chapter shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b.

(d) The commissioner may, after notice and hearing in accordance with the provisions of chapter 54, impose a civil penalty on any person who engages in or practices the work or occupation for which a certificate of registration is required by this chapter without having first obtained such a certificate of registration or who wilfully employs or supplies for employment a person who does not have such a certificate of registration or who wilfully and falsely pretends to qualify to engage in or practice such work or occupation, or who engages in or practices any of the work or occupations for which a certificate of registration is required by this chapter after the expiration of his certificate of registration or who violates any of the provisions of this chapter or the regulations adopted pursuant thereto. Such penalty shall be in an amount not more than five hundred dollars for a first violation of this subsection, not more than seven hundred fifty dollars for a second violation of this subsection occurring not more than three years after a prior violation and not more than one thousand five hundred dollars for a third or subsequent violation of this subsection occurring not more than three years after a prior violation. Any civil penalty collected pursuant to this subsection shall be deposited in the Consumer Protection Enforcement Fund established in section 21a-8a.

(e) Certificates issued to home improvement contractors or salesmen shall not be transferable or assignable.

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

(g) The renewal fee for a certificate of registration as a home improvement contractor acting solely as the contractor of record for a registration as a home improvement contractor acting solely as the contractor of record for a corporation, shall be waived, if such contractor uses such registration for the sole purpose of directing, supervising or performing home improvements for such corporation.

(h) Failure to receive a notice of expiration or a renewal application shall not exempt a contractor or salesman from the obligation to renew.

(i) No contractor shall commence work unless each applicable building or construction permit has been obtained as may be required under the general statutes or local ordinances.

(P.A. 79-606, S. 10, 14; P.A. 81-361, S. 2, 39; 81-472, S. 136, 159; P.A. 82-315, S. 3; P.A. 88-269, S. 8; P.A. 89-251, S. 149, 203; P.A. 91-325, S. 1; P.A. 94-36, S. 22, 42; 94-68, S. 2; P.A. 96-117, S. 2; P.A. 00-192, S. 79, 102.)

History: P.A. 81-361 deleted provision in Subsec. (e) allowing prorated fees lower than application fee and changed the word "issuance" to "effective date"; P.A. 81-472 made technical changes; P.A. 82-315 made violation of chapter an unfair or deceptive trade practice; P.A. 88-269 amended Subsec. (a) to include advertisements, amended Subsec. (b) to include salesmen in Subdiv. (3) and to add Subdivs. (7) and (8) concerning employment of unregistered salesmen and failure to make refunds, amended Subsec. (f) to increase fee for restoration of expired license from five to ten dollars and added Subsecs. (g), (h) and (i) concerning restoration, failure to receive notice of expiration and the necessity of the existence of building and construction permits at the beginning of work, deleting obsolete provisions in Subsecs. (d) and (e); P.A. 89-251 amended Subsec. (f) to increase the restoration fee from ten dollars to twenty dollars; P.A. 91-325 amended Subsec. (b) by authorizing court to impose a period of probation of not more than five years in order to ensure that the victims would be fully repaid if the court determined that a contractor could not fully repay his victims within the period of probation established in Subsec. (d) of Sec. 53a-29; P.A. 94-36 amended Subsec. (d) by eliminating the alphabetical certificate renewal system and deleted Subsecs. (e) and (f) which provided for prorated certificate application fees and late certificate renewal fees, relettering remaining Subsecs. as necessary, effective January 1, 1995; P.A. 94-68 amended Subdiv. (8) of Subsec. (b) by adding the clause allowing the date of the contract to be used if no starting date was specified in the contract, expanded criminal penalties in Subsec. (c) and inserted Subsec. (d) re civil penalties, relettering former Subsecs. (c) to (i), inclusive, accordingly; P.A. 96-117 amended Subsec. (c) to add references to Sec. 54-56e; P.A. 00-192 amended Subsec. (g) to delete provision that certificate shall not be restored unless renewed not later than one year after its expiration and to add provision re waiver of renewal fee for certain home improvement contractors, effective July 1, 2000.

See Sec. 21a-4(c) re fines for late certificate renewals.

See Sec. 21a-10(b) re staggered schedule of certificate renewals.

Cited. 224 C. 231, 233, 239. Cited. 231 C. 707, 727.

Cited. 13 CA 194, 197.

Subsec. (b):

Cited. 215 C. 336, 343. Cited. 228 C. 574, 575, 579. Subdiv. (5) cited. 229 C. 516, 518.

Cited. Id., 516, 518, 519. Cited. 231 C. 707, 727. Subdiv. (5): Although the case against defendant under section was initially dismissed based on statute of limitations, the state's successful appeal on the statute of limitations calculation and subsequent trial did not constitute unlawful double jeopardy. 250 C. 1.

Cited. 13 CA 194, 195, 205. Subdiv. (5): Requires current valid license. 19 CA 1, 2, 4, 5. Subdiv. (5) cited. 41 CA 476—478. Cited. 45 CA 743. Subdiv. (5): Prosecution after earlier dismissal for expiration of statute of limitations did not constitute double jeopardy. 49 CA 553.

Cited. 44 CS 274.

Subsec. (c):

Subdiv. (1) cited. 41 CA 476, 477. Subdiv. (2) cited. 42 CA 124.

Subsec. (d):

Cited. 19 CA 1, 4.

Sec. 20-428. Exemptions. This chapter shall not apply to any of the following persons or organizations: (1) The government of the state, municipalities of the state or any department or agency of the state or such municipalities; (2) the government of the United States or any of its departments or agencies; (3) any school, public or private, offering as part of a vocational education program courses and training in any aspect of home improvements; and (4) any person holding a current professional or occupational license issued pursuant to the general statutes, and any person registered pursuant to sections 25-126 to 25-137, inclusive, provided such person engages only in that work for which such person is licensed or registered.

(P.A. 79-606, S. 11, 14; P.A. 90-233, S. 1; P.A. 91-99; P.A. 02-82, S. 1.)

History: P.A. 90-233 extended exemption to those holding licenses under chapter 390, 391 or 393; P.A. 91-99 exempted persons holding a current professional or occupational license from provisions of chapter, deleting reference to licenses issued under chapter 390, 391 or 393; P.A. 02-82 exempted well drilling contractors registered pursuant to Secs. 25-126 to 25-137, inclusive, provided work engaged in is only that work for which contractor is registered, and made technical change for purpose of gender neutrality.

Sec. 20-427 et seq. cited. 224 C. 231, 239. Cited. 240 C. 654.

Cited. 33 CA 294, 300. Cited. 42 CA 124.

Subdiv. (1):

Cited. 240 C. 654.

Cited. 42 CA 124.

Subdiv. (4):

Cited. 40 CA 351—355, 357, 358. Licensed public adjusters are exempt from act pursuant to this subdivision. 58 CA 8.

Sec. 20-429. Required contract provisions; enforceability. Negative option provisions prohibited. Owner to receive copy. Contracts considered home solicitation sales. Contractor-financed contracts. Commissioner may dispense with certain contract requirements. Court may order recovery of payment of work performed. (a) No home improvement contract shall be valid or enforceable against an owner unless it: (1) Is in writing, (2) is signed by the owner and the contractor, (3) contains the entire agreement between the owner and the contractor, (4) contains the date of the transaction, (5) contains the name and address of the contractor, (6) contains a notice of the owner's cancellation rights in accordance with the provisions of chapter 740, (7) contains a starting date and completion date, and (8) is entered into by a registered salesman or registered contractor. Each change in the terms and conditions of a contract shall be in writing and shall be signed by the owner and contractor, except that the commissioner may, by regulation, dispense with the necessity for complying with the requirement that each change in a home improvement contract shall be in writing and signed by the owner and contractor.

(b) No home improvement contract shall be valid if it includes any provision obligating the owner to instruct the home improvement contractor, by a date determined by such contractor, that periodic home improvements are not to be performed unless it also includes a provision requiring the contractor to remind the owner of that obligation by means of a card or letter mailed to the owner and postmarked not earlier than twenty

days, and not later than ten days, prior to such date.

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

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

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

(f) Nothing in this section shall preclude a contractor who has complied with subdivisions (1), (2), (6), (7) and (8) of subsection (a) of this section from the recovery of payment for work performed based on the reasonable value of services which were requested by the owner, provided the court determines that it would be inequitable to deny such recovery. (P.A. 79-606, S. 12, 14; P.A. 86-94, S. 1; P.A. 88-269, S. 9; 88-364, S. 108, 123; P.A. 91-325, S. 3; P.A. 93-215, S. 1; P.A. 01-155, S. 1.)

History: P.A. 86-94 inserted new Subsec. (b) providing that no home improvement contract shall be valid if it includes a provision obligating the owner to instruct the contractor by a certain date that work is not to be performed, relettering former Subsecs. as necessary; P.A. 88-269 expanded Subsec. (a) to include eight required provisions and added Subsec. (e) providing that the contracts are to be considered home solicitation sales; P.A. 88-364 corrected an incorrect reference to the statutory location of the cancellation rights in P.A. 88-269; P.A. 91-325 amended Subsec. (a) by authorizing commissioner to dispense with the necessity for complying with the requirement that each change in a home improvement contract be in writing and assigned by the owner and contractor; P.A. 93-215 added Subsec. (f) re contractor's right to recover payment for work performed; P.A. 01-155 amended Subsec. (e) by adding provisions re contracts financed by loan or advance from the contractor.

See Sec. 1-2a re construing of references to "United States mail" or "postmark" to include references to any delivery service designated by the Secretary of the Treasury pursuant to Section 7502 of the Internal Revenue Code of 1986 or any successor to the code, as amended, and to any date recorded or marked as described in said Section 7502 by a designated delivery service and construing of "registered or certified mail" to include any equivalent designated by the Secretary of the Treasury pursuant to said Section 7502.

Is not construed to apply doctrine of full performance. 200 C. 713—716, 718—720.

Cited. 209 C. 185—187. Cited. 215 C. 316, 319—321. 325—328. Cited. Id., 336, 337, 339, 340. Cited. Id., 345—347, 349, 350. Absent proof of bad faith on part of

homeowner, statute does not permit recovery in quasi-contract by contractor who fails to comply with requirement for written contract. Id., 350, 351, 353, 354. Cited. 224 C. 231, 233, 234, 236, 239. Sec. 20-427 et seq. cited. Id. Cited. Id., 240. Cited. 237 C. 123, 134, 135.

Cited. 18 CA 581, 589. Cited. 20 CA 625, 629. Cited. 24 CA 223, 226, 228. Cited. 27 CA 162, 163, 166, 167. Cited. 33 CA 294, 300. Cited. 35 CA 253, 254, 257. Cited. 38 CA 420, 430. Cited. 40 CA 351, 353, 354. Cited. 43 CA 184. Requirement that a consumer is fully notified and understands his or her right to cancel a contract is central to Home Improvement Act. Home improvement contract violated requirements of the act because contract and cancellation form did not have a transaction date. 72 CA 53.

Subsec. (a):

Cited. 200 C. 713, 717. Subdiv. (1) cited. 215 C. 316, 321. Cited. Id., 316, 325. Cited. Id., 345, 349. Cited. Id., 350, 353. Bad faith exception to enforcement of provisions discussed. 224 C. 231, 232, 234, 235. Subdiv. (6) cited. Id., 231, 235. Cited. Id., 240, 242. Subdiv. (6) cited. Id., 240, 242—245. Cited. 232 C. 666, 671. Provisions of statute mandatory but strict compliance not required and contract valid even though two copies of cancellation notice not attached to contract and cancellation date not noted. 247 C. 218.

Cited. 18 CA 463—466. Cited. Id., 581—583, 586—589. Cited. 24 CA 223, 224, 226, 228. Subdiv. (6) cited. Id., 223—226, 228. Subdiv. (3) cited. Id., 223, 227. Subdiv. (6) cited. 27 CA 162, 164, 165. Cited. 31 CA 682, 687. Subdiv. (6) cited. Id., 294, 300. Subdiv. (7) cited. Id., 294, 301. Subdiv. (6) cited. 35 CA 253, 255. Subdiv. (7) cited. Id. Subdiv. (1) cited. 40 CA 351—353, 355, 356, 358. Subdiv. (1) cited. 45 CA 586. Because the contract in this case consists of two separate documents, the documents read together constitute a contract that satisfies section's requirements. 69 CA 136.

Subsec. (b):

Cited. 200 C. 713, 717.

Subsec. (c):

Cited. 18 CA 581—583.

Subsec. (e):

Cited. 224 C. 231, 234. Cited. 232 C. 666, 680.

Sec. 20-429a. Certain solicitation practices prohibited. No contractor or salesman shall solicit or otherwise endeavor to procure home improvement work or a home improvement contract from an owner by notifying the owner that a contractor will commence home improvement work unless the owner instructs the contractor not to commence such work by a date determined by the contractor.

(P.A. 86-94, S. 2; P.A. 88-269, S. 10.)

History: P.A. 88-269 made technical changes, deleting specific references to Sec. 20-419. Sec. 20-427 et seq. cited. 224 C. 231, 239.

Sec. 20-430. Commissioner to adopt regulations. The commissioner shall adopt regulations in accordance with chapter 54 to carry out the provisions of this chapter.

(P.A. 79-606, S. 13, 14.)
Sec. 20-427 et seq. cited. 24 C. 231, 239.

Sec. 20-431. (Formerly Sec. 20-425). Appeals. Any person aggrieved by an order or decision of the commissioner under this chapter may appeal therefrom in accordance with the provisions of section 4-183.

(P.A. 79-606, S. 8, 14; P.A. 86-403, S. 96, 132.)

History: P.A. 86-403 made technical changes; Sec. 20-425 transferred to Sec. 20-431 in 1987.

Sec. 20-427 et seq. cited. 24 C. 231, 239.

Sec. 20-432. Home Improvement Guaranty Fund. (a) The commissioner shall establish and maintain the Home Improvement Guaranty Fund.

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

(c) Payments received under subsection (b) of this section shall be credited to the guaranty fund until the balance in such fund equals seven hundred fifty thousand dollars. Annually, if such fund has an excess, the first four hundred thousand dollars of the excess shall be deposited into the Consumer Protection Enforcement Fund established in section 21a-8a. Any excess thereafter shall be deposited in the General Fund. Any money in the 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 guaranty fund.

(d) Whenever an owner obtains a court judgment against any contractor holding a certificate or who has held a certificate under this chapter within the past two years of the effective date of entering into the contract with the owner, for loss or damages sustained by reason of performance of or offering to perform a home improvement within this state by a contractor holding a certificate under this chapter, such owner may, upon the final determination of, or expiration of time for, appeal in connection with any such judgment, apply to the commissioner for an order directing payment out of said guaranty fund of the amount unpaid upon the judgment for actual damages and costs taxed by the court against the 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 contractor together with a notarized affidavit, signed and sworn to by the owner, affirming that: (1) He has complied with all the requirements of this subsection; (2) he has obtained a judgment stating the amount thereof and the amount owing thereon at the date of application; and (3) he has caused to be issued a writ of execution upon said judgment, and the officer executing the same has made a return

showing that no bank accounts or real property of the 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 thereon of the amount realized, except that the requirements of this subdivision shall not apply to a judgment obtained by the owner in small claims court. A true and attested copy of said executing officer's return, when required, shall be attached to such application and affidavit. No application for an order directing payment out of the guaranty fund shall be made later than two years from the final determination of, or expiration time for, appeal of said court judgment.

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

(f) Whenever an owner is awarded an order of restitution against any contractor for loss or damages sustained by reason of performance of or offering to perform a home improvement in this state by a contractor holding a certificate or who has held a certificate under this chapter within the past two years of the date of entering into the contract with the owner, in a proceeding brought by the commissioner pursuant to this section or subsection (d) of section 42-110d, or in a proceeding brought by the Attorney General pursuant to subsection (a) of section 42-110m or subsection (d) of section 42-110d, or a criminal proceeding pursuant to section 20-427, such owner may, upon the final determination of, or expiration of time for, appeal in connection with any such order of restitution, apply to the commissioner for an order directing payment out of said guaranty fund of the amount unpaid upon the order of restitution. The commissioner may issue said order upon a determination that the owner has not been paid.

(g) Before the commissioner shall issue any order directing payment out of the guaranty fund to an owner pursuant to subsections (e) or (f) of this section, the commissioner shall first notify the contractor of the owner's application for an order directing payment out of the guaranty fund and of the contractor's right to a hearing to contest the disbursement in the event that the contractor has already paid the owner. Such notice shall be given to the contractor within fifteen days of the receipt by the commissioner of the owner's application for an order directing payment out of the guaranty fund. If the contractor requests a hearing in writing by certified mail within fifteen days of 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 receives no written request by certified mail from the contractor for a hearing within fifteen days of the contractor's receipt of such notice, the commissioner shall determine that the owner has not been paid, and the commissioner shall issue an order directing payment out of the guaranty fund for the amount unpaid upon the judgment for actual damages and costs taxed by the court against the contractor, exclusive of punitive damages, or for the amount unpaid upon the order of restitution.

(h) The commissioner or his designee may proceed against any contractor holding a

certificate or who has held a certificate under this chapter within the past two years of the effective date of entering into the contract with the owner, for an order of restitution arising from loss or damages sustained by any person by reason of such contractor's performance of or offering to perform a home improvement in this state. Any such proceeding shall be held in accordance with the provisions of chapter 54. In the course of such proceeding, the commissioner or his designee shall decide whether to exercise his powers pursuant to section 20-426; whether to order restitution arising from loss or damages sustained by any person by reason of such contractor's performance or offering to perform a home improvement in this state; and whether to order payment out of the guaranty fund. Notwithstanding the provisions of chapter 54, the decision of the commissioner or his designee shall be final with respect to any proceeding to order payment out of the guaranty fund and the commissioner and his designee are exempted from the requirements of chapter 54 as they relate to appeal from any such decision. The commissioner or his designee may hear complaints of all owners submitting claims against a single contractor in one proceeding.

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

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

(k) In order to preserve the integrity of the guaranty fund, the commissioner, in the commissioner's sole discretion, may order payment out of said fund of an amount less than the actual loss or damages incurred by the owner or less than the order of restitution awarded by the commissioner or the Superior Court. In no event shall any payment out of said guaranty fund be in excess of fifteen thousand dollars for any single claim by an owner.

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

(m) When the commissioner has caused any sum to be paid from the guaranty fund to an owner, the commissioner shall be subrogated to all of the rights of the owner up to the amount paid plus reasonable interest, and prior to receipt of any payment from the guaranty fund, the owner shall assign all of this 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 guaranty fund.

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

(o) If the commissioner orders the payment of an amount as a result of a claim against a

contractor, the commissioner may, after notice and hearing in accordance with the provisions of chapter 54, revoke the certificate of the contractor and the contractor shall not be eligible to receive a new or renewed certificate until he has repaid such amount in full, plus interest from the time said payment is made from the guaranty fund, at a rate to be in accordance with section 37-3b, except that the commissioner may, in his sole discretion, permit a contractor to receive a new or renewed certificate after that contractor has entered into an agreement with the commissioner whereby the contractor agrees to repay the guaranty 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 contractor if payment is not made in accordance with the terms of the agreement.

(P.A. 88-269, S. 11; P.A. 89-251, S. 150, 203; P.A. 90-233, S. 2; 90-321, S. 5; P.A. 91-325, S. 2; P.A. 94-68, S. 3; P.A. 96-117, S. 3; P.A. 97-129; P.A. 99-74, S. 1, 3.)

History: P.A. 89-251 amended Subsec. (b) to increase the fee for renewal of a salesman's certificate from twenty dollars to forty dollars and increased the fee for renewal of a contractor's certificate from fifty dollars to one hundred fifty dollars; P.A. 90-233 amended Subsec. (d) to delete former exclusion of attorney's fees from consideration as part of judgment amount and amended Subsec. (l) to raise maximum payment from guaranty fund from five thousand to ten thousand dollars; P.A. 90-321 amended section to allow claims to be made against fund when contractor held a certificate within the past two years; P.A. 91-325 (1) amended Subsec. (d) by providing for the submission of bona fide documentation to replace the hearing procedure as a means for a homeowner to be reimbursed from the fund, (2) inserted new Subsec. (e), (3) relettered former Subsec. (e) as Subsec. (f) and expanded the types of proceedings in which a homeowner could recover and specified that the commissioner could only issue an order of disbursement from the fund upon a determination that the owner has not been paid, (4) added new Subsec. (g) requiring notice to the contractor before any disbursement is made from the fund in the event that the contractor has already paid the homeowner, (5) relettered former Subsec. (f) as Subsec. (h) and amended it to provide that a designee of the commissioner could proceed against a contractor and decide whether to exercise the powers under Sec. 20-426, order restitution and whether to order payment out of the guaranty fund, (6) relettered Subsec. (g) as Subsec. (i) and amended it to expand the period during which an application for disbursement from the fund could be made from one year to two years from the final determination of, or expiration of time for, appeal in connection with any judgment or order of restitution, (7) deleted former Subsecs. (h) and (i) re hearing procedure, (8) made technical changes in Subsec. (j), (9) deleted former Subsec. (k) relettering remaining Subsecs. accordingly and (10) amended Subsec. (o), formerly (p), to permit the commissioner to exercise discretion as to whether to renew a certificate if the contractor had entered an agreement with the commissioner whereby payment would be made in periodic payments over a set period of time; P.A. 94-68 amended Subsec. (c) to require deposit of certain surplus moneys in the Consumer Enforcement Protection Fund, replaced "personal property" with "bank accounts" in Subdiv. (3) of Subsec. (d), provided for the revocation of a contractor's certificate in Subsec. (o) and made technical corrections; P.A. 96-117 amended Subsec. (b) to waive the annual fee for a contractor of record; P.A. 97-129 amended Subsec. (c) to increase the amount deposited into the Consumer Protection Enforcement Fund from one hundred

fifty thousand dollars to four hundred thousand dollars, and amended Subsec. (d) to provide that Subdiv. (3) requirements shall not apply to judgments obtained by owner in small claims court; P.A. 99-74 made gender neutral change and increased maximum allowable payment from guaranty fund from ten to fifteen thousand dollars for a single claim, effective May 27, 1999.
Sec. 20-427 et seq. cited. 224 C. 231, 239.